

IN THE MATTER OF A MEETING  
OF THE BOARD OF REVISION (Regina)

PANEL: Joanne Moser, Chair  
Linda Paidel, Member  
Walter Antonio, Member

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TRANSCRIPT OF BOARD OF REVISION EVIDENCE

**APPEAL NO. 2017-28122 - 2216 East Emmet Hall Road**  
**APPEAL NO. 2017-28100 - 610 Henderson Drive**

Held at Regina, Saskatchewan on  
May 15 and 16, 2017  
(Volume 1)

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APPEARANCES:

Archie Fieldgate  
Ryan Simpson

Altus Group  
FOR THE APPELLANT

Gerry Krismer  
Scott Miller

City of Regina, Advocates  
FOR THE RESPONDENT

Dr. Andrei Volodin  
Scott Miller  
Robert Gloude-mans

Appellant Witness  
Respondent Witness  
Respondent Witness

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1 (Proceedings commenced at 9:04 a.m., May 15, 2017)

2 CHAIRPERSON: Good morning, everyone. My  
3 name is Joanne Moser and I'll be the Chair  
4 for the Board of Revision for today and  
5 tomorrow's hearings.

6 Before we get started, I just  
7 wanted to know which appeal the parties were  
8 anticipating presenting first. We have two  
9 lead appeals identified in today's docket.

10 RYAN SIMPSON: Good morning, Madam Chair.

11 With respect to site coverage  
12 issue for non-large industrial properties we  
13 were going to 2216 East Emmet Hall Road, and  
14 specifically with large industrial properties  
15 which addresses a size issue we were going to  
16 refer to 610 Henderson Drive.

17 CHAIRPERSON: Thank you for that. So is it  
18 your intent to address them both together, or  
19 are we starting with -- I have appeal 28100  
20 which I think is the first one that you  
21 mentioned, and then I have 28122, which I  
22 think is the second one which you mentioned.  
23 I just -- for the purposes of the record I'd  
24 like to call the appeal, and then once we do  
25 that discuss what's going to happen. So what

1 is the plan?

2 RYAN SIMPSON: I can appreciate that, Madam  
3 Chair.

4 So with respect to all issues  
5 except the size issue we can certainly use  
6 281 -- or Appeal No. 28100, the 2216 East  
7 Emmet Hall Road. And then with respect to  
8 the building size issue, um, we could carry  
9 forward the -- the other evidence, and with  
10 respect to that building size issue  
11 specifically refer to Appeal No. 28122, which  
12 would be 610 Henderson Drive.

13 CHAIRPERSON: Thank you. So with that then  
14 I'll have our assistant call Appeal 28100.

15 PANEL CLERK: Appeal No. 2017-28100, it's  
16 2216 East Emmet Hall Road.

17 CHAIRPERSON: Thank you. So now for the  
18 purposes of the record my name'' Joanne  
19 Moser, I'm the Chair for this morning's  
20 Panel. To my right I have --

21 WALTER ANTONIO: Walter Antonio.

22 CHAIRPERSON: And to my left?

23 LINDA PAIDEL: Linda Paidel.

24 CHAIRPERSON: And representing the  
25 Appellants today?

1 RYAN SIMPSON: Ryan Simpson with Altus Group.

2 CHAIRPERSON: And for the City Assessor?

3 I'm sorry.

4 ARCHIE FIELDGATE: Archie Fieldgate with Altus  
5 Group. Sorry.

6 CHAIRPERSON: Sorry.

7 ARCHIE FIELDGATE: It's okay.

8 CHAIRPERSON: And for the -- that was a --  
9 let's have you repeat that so that the court  
10 reporter has that.

11 ARCHIE FIELDGATE: Archie Fieldgate with Altus  
12 Group.

13 CHAIRPERSON: And for the City Assessor?

14 GERRY KRISMER: Gerry Krismer, City of Regina.

15 SCOTT MILLER: Scott Miller, City of Regina.

16 CHAIRPERSON: Thank you. And I do note that  
17 we have a court reporter present today and  
18 we've signed the order permitting that prior  
19 to beginning.

20 I also understand that there  
21 is a preliminary issue that I am aware of,  
22 and that was the matter of several appeals  
23 that had been removed from the docket but  
24 then returned to the docket with the consent  
25 of both parties, um, and so for the purposes

1 of our discussions on what gets carried  
2 forward, um, I just want to identify that we  
3 have before us on the docket with the consent  
4 of both parties Appeal 2017-28073, 28074,  
5 28076, 28093, 28094, and 28099. Does that  
6 sound correct?

7 GERRY KRISMER: That does, Madam Chair.

8 RYAN SIMPSON: Yes, Madam Chair.

9 CHAIRPERSON: All right. So those appeals  
10 are added to today's docket.

11 Before we get started are  
12 there any preliminary matters from either of  
13 the parties?

14 RYAN SIMPSON: Madam Chair, the Appellant has  
15 a witness to call with respect to the large  
16 industrial appeals.

17 CHAIRPERSON: And so when that time occurs  
18 in the process we'll have the witness take an  
19 affirmation and provide his or her testimony.

20 RYAN SIMPSON: Yes.

21 CHAIRPERSON: All right. So before we  
22 begin, I believe that all four faces in front  
23 of me are familiar to the Board and I'm not  
24 proposing to give any summary of how our  
25 process occurs, unless there's any requests.

1 Mr. Krismer, I don't know if you have any  
2 comment to make. I see your microphone is  
3 on.

4 GERRY KRISMER: I do, Madam Chair, and, um,  
5 I'm not sure how we want to proceed on it  
6 necessarily, but their witness is here to  
7 speak to the appeal that would deal with 610  
8 Henderson as the lead appeal, and I'm just  
9 wondering whether or not we could deal with  
10 that appeal first and then get through that  
11 appeal and then move to the appeal with the  
12 lead of, um, Emmet Hall Road, if we could do  
13 it that way.

14 Um, there's a possibility -- I  
15 mean, if it goes longer than today, they'd  
16 have their witness sitting here all day today  
17 to speak to an issue that deals with  
18 something to be brought up tomorrow, so it's  
19 just a question whether or not we want to  
20 move forward with 610 Henderson first, see  
21 how far we get with that appeal, and then  
22 move into the second appeal as the lead.  
23 Just a suggestion, Madam Chair.

24 RYAN SIMPSON: Madam Chair, our witness  
25 doesn't mind seeing the process unfold, um,



1                   and if it's okay with everybody, with the way  
2                   we have our documentation and our argument  
3                   laid out it might be best just to stick with  
4                   it.

5           GERRY KRISMER:                   I would ask that if we moved  
6                   in -- and the reason I say this, Madam Chair,  
7                   Mr. Miller is here today, he does have a  
8                   commitment tomorrow that he can't be here  
9                   for. I think the Board had requested some  
10                  time ago for an idea of a lead appeal, so we  
11                  didn't know how it was going to proceed when  
12                  we moved into today, which group was going to  
13                  be heard first or second. Um, it's important  
14                  that Mr. Miller be here for this hearing, and  
15                  if 610 doesn't go today, if it doesn't get  
16                  through today, through the entire process,  
17                  arguably we'll be looking for an adjournment  
18                  that Mr. Miller could be around. I think  
19                  it's easily handled by 610 going first and  
20                  then moving into Emmet Hall.

21          CHAIRPERSON:                   The Board is of the view that  
22                  we should begin with the appeal that has been  
23                  called, 28100. We will proceed with hearing  
24                  the case, and if time management or witness  
25                  availability becomes an issue we will

1 entertain requests to re-arrange that so that  
2 the parties' witnesses can be present as  
3 necessary, all right?

4 So we'll begin then, um, with  
5 the agent and, uh, presentation of your, um,  
6 materials for Appeal 28100, please.

7 ARCHIE FIELDGATE: Good morning, Madam Chair and  
8 Members of the Board. I just want to give a  
9 quick -- before I turn the process to my  
10 colleague, Mr. Simpson -- I just want to give  
11 a quick overview of the *Sasco* case out of  
12 Moose Jaw referred to in our submission and a  
13 quick background of that case because we were  
14 the ones that went to Court of Appeal in that  
15 case and lost.

16 And, uh, frankly, Madam Chair,  
17 the -- I spend more time educating my  
18 clients, especially those from out of  
19 province, to do with the process in  
20 Saskatchewan, and they can't understand why I  
21 can't get things fixed up like they can in  
22 other provinces, and I point out the *Sasco*  
23 case and I point out that we're different and  
24 the one difference in legislation is the fact  
25 we can't use single property appraisal

1 techniques.

2 And, uh, the background of the  
3 Sasco case is quite straight -- quite  
4 straightforward. The, uh, Heritage Inn is  
5 the subject property, it was assessed in  
6 2009, first year of the income approach, at  
7 3.7 million, and, uh, the problem with that  
8 case, their occupancy rate was sitting around  
9 45 percent compared to the model 60 percent  
10 and that was causing a problem.

11 So we actually went to the  
12 Board, we wanted to demonstrate that there  
13 was a problem here, so we put in their actual  
14 income and that brought it down to 5.2  
15 million and we never expected to win the  
16 whole nine yards. To be honest with you, we  
17 wanted to shift the onus of proof to SAMA,  
18 but instead the Board ruled in our favour and  
19 brought the assessment down to 5.2 million by  
20 using the site specific information.

21 And, uh, of course SAMA  
22 appealed then to the SMB and they reversed it  
23 back up to 8.7, and then it went to the Court  
24 of Appeal the Court of Appeal was quite clear  
25 that you couldn't use site specific

1 information in Saskatchewan, single property  
2 appraisal techniques, and, uh -- and the  
3 Court basically said that Saskatchewan is  
4 different. And our lawyer put in a lot of  
5 different cases from other provinces such as  
6 Alberta, and I believe Nova Scotia and there  
7 was a few others, and the Court said that  
8 these cases are no -- they're not beneficial  
9 to what happens in Saskatchewan 'cause we're  
10 different. He says in paragraph 57 of the  
11 Sasco case: (as read)

12 We are of the opinion it's not open to  
13 the assessor in this province to  
14 employ the income method of appraisal  
15 and adapt it to mass appraisal to use  
16 single property appraisal techniques.  
17 So this year when the Assessors have been  
18 adjusting the cap rates for each property to  
19 do with site coverage, a lot of my clients  
20 says well, I thought you said you couldn't  
21 use single property appraisal techniques.  
22 That's single property assessment when it  
23 comes to giving an individual cap rate to  
24 each property, and a lot of them said that  
25 they were of the view they didn't have extra

1 land as alleged in their assessment.

2 So that's basically why we're  
3 here and that's why we're referring to the  
4 Sasco case. I read Mr. Krismer's  
5 presentation and he could be right on the  
6 Sasco. I'm not -- I guess that's why we're  
7 here, Madam Chair, just -- I have a lot of  
8 clients, and especially next week too, we're  
9 going to have a lot of retail clients coming  
10 up on Tuesday with the same type of issue and  
11 they hold the view they don't have extra land  
12 and what they're being assessed for in their  
13 view. So that's why here on this particular  
14 matter, so I want to touch on it at the  
15 outset, Madam Chair.

16 And of course I've run other  
17 cases, I've tested the other cases where I  
18 had a client that was assessed at \$16 a  
19 square foot and they were getting rent of \$10  
20 and I lost that at the SMB, and of course Mr.  
21 Krismer he told the Board that well, these  
22 were situations where someone's being  
23 assessed for \$8 or whatever with a rent of  
24 10. He said it's called mass appraisal, and  
25 he was quite correct when he said that

1                   actually.

2                   So I just want to touch on  
3                   that, Madam Chair, just give a background  
4                   where we're coming from on the *Sasco* case,  
5                   and it's in our submission, and, uh, from  
6                   that we'll go into, uh -- if you don't agree  
7                   with -- if you think the *Sasco* case does not  
8                   apply here and Mr. Krismer not using mass  
9                   appraisal, then we have other concerns about  
10                  -- with the site coverages being developed  
11                  through his formulas.

12                  And with that I'll turn it  
13                  over to my colleague, Mr. Simpson.

14                  RYAN SIMPSON:            Thank you, Mr. Fieldgate.  
15                  Good morning, Madam Chair, Board Members.

16                  I'll briefly give a quick  
17                  summary of the subject property. At the  
18                  bottom of our argument you will notice  
19                  footnotes respecting each Appendix with the  
20                  appropriate page number. I'll be referring  
21                  to these throughout.

22                  So the subject property,  
23                  Appeal No. 28100, is the Federated Co-  
24                  operative Limited, um, civic address 2216  
25                  East Emmet Hall Road. The property map in

1 the pictures can be referenced on page 17 of  
2 our document, and the first two pictures are  
3 an above view, an aerial view, and the  
4 remaining pictures are exterior photos of the  
5 property. It's fenced off, as you can see,  
6 it's used primarily for propane. A lot of  
7 the grounds are required for the storage of  
8 propane tanks.

9 Now, based upon the zoning  
10 medium industrial zoning, it's different than  
11 commercial and others, to account for noise  
12 and fumes and other such things, and I'll  
13 reference that in a little bit, but first the  
14 subject itself is a 5,100-square-foot  
15 industrial property. The site comprises  
16 33,486 square feet of main floor space and  
17 1,620 of upper floor space. As I briefly  
18 mentioned before, the subject is zoned as  
19 medium industrial, IV, or code IV. A  
20 significant portion of the property is fenced  
21 off containing the equipment and dangerous  
22 material.

23 The site has a lot size of  
24 87,015 square feet and the resulting site  
25 coverage ratio is 4.44 percent.

1                   The method used by the City to  
2 determine the assessment of the subject  
3 property is the income approach through the  
4 industrial market model, and that industrial  
5 market model can be referenced on page 21,  
6 Appendix B.

7                   On page 22 within the model  
8 under Zoning Descriptions it lists IA and  
9 IA-1, and then below that IB and IB-1.  
10 Medium industrial allows for manufacturing,  
11 processing, assembly, distribution, service  
12 and repair activities that require outdoor  
13 storage and use. The zoning is restricted to  
14 locations on interior industrial  
15 neighbourhoods and along collector roadways.

16                   So I'll just emphasize this  
17 again. Requires outdoor use and storage.

18                   For the Board's record,  
19 Appendix C, page 41, is the subject property  
20 SPSS report held by the Assessor, and the  
21 zoning and effective zoning is IV, medium  
22 industrial. There is a final assessment  
23 value of 1.6 million, and, as you can see, a  
24 4.4464 percent cap rate, and site coverage  
25 adjustment for the lump sum, site coverage



1 percentage 4.44 percent that was mentioned.

2 On the left-hand side of the  
3 sheet you can see the SPSS calculation output  
4 at the bottom where it says as land, and that  
5 corresponds with the \$466,335 assessment for  
6 the lump sum rent value.

7 Moving back into the model on  
8 page 38 at the bottom, it lists adjustments  
9 outside the model, and it has extra land.

10 The City states: *(as read)*

11 Extra land is the difference between  
12 a property's actual parcel size and  
13 the maximum parcel size that would be  
14 required to accommodate the existing  
15 improvement.

16 It goes onto state: *(as read)*

17 Site coverage in the industrial model  
18 ranges from 6 percent to 88 percent.  
19 Median site coverage is 30 percent.  
20 When site coverage is less than the  
21 median, the capitalization rate for  
22 the building is adjusted according to  
23 the results of the regressed  
24 capitalization model to a minimum of 9  
25 percent coverage.

1           And then when it's below 9 percent, uh, there  
2           is an extra land formula. So the first  
3           sentence says "... and the maximum parcel  
4           size that would be required to accommodate  
5           the existing improvement."

6                     The City has a different  
7           interpretation as to what is required for the  
8           existing improvement. As far as I'm aware,  
9           the City's position is just the land that is  
10          needed for the building to sit.

11                    Now, Altus' position, and I'll  
12          get into more detail in a bit, but Altus'  
13          position is that the land required for the  
14          function of that particular building, or that  
15          particular site, extends beyond just the  
16          footprint of the building but it includes the  
17          required part pursuant to Bylaw 9250, in that  
18          they have minimum requirements for parking  
19          and minimum requirements for parking lot  
20          driveways or drive-throughs so people don't  
21          double-park and that sort of thing.

22                    And so there are other  
23          components with the bylaw that limit the  
24          ability to develop the land, and based upon  
25          those bylaws, if you were to overbuild on a

1 site, it would make the functionality of the  
2 existing structures untenable. There would  
3 not be enough parking to meet the minimum  
4 requirements pursuant to the bylaw for that  
5 particular parcel.

6 On page 6 there's a bit of  
7 assessment background, and I'll skip over and  
8 discuss it a little bit so far.

9 Moving to page 9 at the bottom  
10 in the footnotes list Appendix F for the  
11 Sasco and Elton's [ph] decision, and that's  
12 on page 61 for the Board's reference.

13 CHAIRPERSON: Could you just clarify that,  
14 page 9 of your submission, um, and page 61 of  
15 the Sasco decision?

16 RYAN SIMPSON: Uh, so page 9 at the bottom  
17 has the footnote with respect to Mr.  
18 Fieldgate's argument, and on page 61 that is  
19 where the decision starts.

20 CHAIRPERSON: Thank you.

21 RYAN SIMPSON: On page 10 I'll start by  
22 asking the Board to turn to page 94 that's  
23 our site coverage example. This is a field  
24 sheet or an SPSS detail report for 460 Albert  
25 Street, and in this example the site coverage

1 is 7.92 percent, so below the minimum  
2 threshold before you apply excess land. And  
3 you'll notice in the bottom half of the  
4 document there's multiple columns. The first  
5 column is the classification, Building 1,  
6 Building 2, Building 3, Building 4, the  
7 second column is kind of a breakdown of each  
8 valuation component, the third column is the  
9 valuation component, and then the assessment  
10 value change on the far right-hand side. In  
11 the second column about halfway down you'll  
12 see a cost of building value, and then again  
13 Building 4. So Building 2 cost of building  
14 value and Building 4 cost of building value.  
15 These particular components reference the  
16 tanks and canopy, I believe, and -- and  
17 perhaps a combination of other cost or  
18 components.

19 Now, these areas are not  
20 considered in the site coverage calculation,  
21 and so for example this particular site is on  
22 the corner of Avonhurst and Albert Street.  
23 It's the Federated Co-op gas bar there.  
24 There's roughly 4,840 square feet of total  
25 canopy area and five underground tanks and

1 one horizontal tank. So the site coverage  
2 calculation does not account for the area  
3 that is used up by these cost components.  
4 Now, what results from that is a site  
5 coverage differential to the median value of  
6 30 percent site coverage, and then there is a  
7 negative cap rate adjustment applied based  
8 upon what kind of site coverage the  
9 particular parcel has over 30 percent. And  
10 so what we see is a decreased overall cap  
11 rate based on that site coverage resulting in  
12 a higher assessment.

13 And Altus' position with  
14 respect to this particular example is that  
15 one cannot use that land for anything other  
16 than what its current highest and best use is  
17 right now, as of January 1 of this year, and  
18 that is canopy and tanks. You can't build  
19 there. You can't put up another structure  
20 underneath the canopy. And so it's already  
21 been accounted for in the valuation of this  
22 assessment. But when it comes to the site  
23 coverage calculation it's not being accounted  
24 for, and so you're effectively saying you  
25 should be able to build there and we are

1 going to apply the negative cap adjustment to  
2 increase the overall assessment because you  
3 are not utilizing that land; but the truth of  
4 the matter is it is being utilized, it's  
5 being utilized at its highest and best use.  
6 And that is where the problem comes in with  
7 respect to the City's formula in  
8 determination the property's assessment when  
9 we are addressing the site coverage issue.

10 Just bear with me one moment,  
11 Madam Chair. Apologies, Madam Chair.

12 We have come across various  
13 sources in other jurisdictions that describe  
14 or point to site coverage and valuing land in  
15 transition in Ontario from the Municipal  
16 Property Assessment Corporation or MPAC, and  
17 that is located in Appendix I on page 30.  
18 And in our paragraph 32 on page 11 I point to  
19 a few of the market influencers listed in  
20 that document, such as site dimensions, site  
21 location, geotech issues, topography access,  
22 zoning, development applications, and  
23 required storage for industrial properties.

24 In Appendix H, page 100, the  
25 Sauer School of Business, Chapter 10, Land

1 and Site Analysis, this particular document  
2 goes into the history, the lock and block  
3 system, title and record data, zoning and  
4 land use information, and that's on page 107.  
5 At the middle of that page, page 107:

6 Most zoning ordinances identify and  
7 define uses to which a property may be  
8 put without reservation or recourse to  
9 legal intervention.

10 This is referred to as use by right. It also  
11 describes a process for obtaining non-  
12 petroleum permits, for instance in zoning  
13 changes if permitted and areas subject to  
14 floods, earthquakes and natural hazards,  
15 special zoning and building regulations may  
16 impose restrictions on construction.

17 On page 108 it lists the  
18 physical characteristics of land.

19 On page 111, about halfway  
20 down, it has a heading Excess Land and  
21 Surplus Land.

22 A given land use has an optimum parcel  
23 size configuration and land to  
24 building ratio. Any extra or  
25 remaining land not needed to support

1 the specific use may have a different  
2 value than land area needed to support  
3 the improvement. The portion of the  
4 property that represents an optimal  
5 site for consistent use will reflect a  
6 typical land to building ratio and the  
7 appraiser can identify and quantify  
8 the land area needed to support the  
9 existing or the improvement. Any  
10 remaining land area is either excess  
11 land or surplus land.

12 So effectively, Madam Chair, we have three --  
13 three different types of land, the land  
14 required for the function of the property or  
15 the building, surplus land, which is land  
16 that isn't being used but can't be separated  
17 and sold off, and excess land, which can be  
18 subdivided and sold off.

19 On page 139 of MPAC document  
20 starting at -- I believe the document starts  
21 at page 131 but I'll reference 139 -- under  
22 heading 2.3 Data Collection:

23 The valuation of lands in transition  
24 involves consideration of the  
25 highest and best use of the property.



1                   This involves the four tests of  
2                   highest and best use which determines  
3                   the property's physical possibility,  
4                   legal permissibility or probability,  
5                   financial feasibility, and maximum  
6                   productivity.

7                   So that leads me back to what I had said  
8                   before in that there is a requirement for  
9                   parking, there is a requirement for minimum  
10                  driveways so vehicles don't get stuck and so  
11                  on, and this references the maximum  
12                  productivity of the parcel. If you were to  
13                  overdevelop so that there is no parking  
14                  there, it makes the functionality of the  
15                  existing structures useless. People would  
16                  not lease those particular buildings. There  
17                  would be no interaction or business  
18                  transaction because those properties would be  
19                  untenable as far as doing business.

20                  And so the idea behind site  
21                  coverage is to develop it in such a way where  
22                  it recognizes maximum productivity, where it  
23                  understands the legal permissibility.

24                  On page 40 it has some point  
25                  form, um, discussing legal permissible --

1           legally permissible, site location, access,  
2           official plans, stuff like that.

3                   On page 147, about halfway  
4           down it has the heading Zoning. The primary  
5           elements that must be reviewed in zoning  
6           bylaws or regulations are, and the first  
7           three points: permitted uses, allowable  
8           coverage and allowable density.

9                   On page 154 at the top there,  
10          the first sentence states:

11                   The Assessor will identify and  
12                   quantify the land area needed to  
13                   support the existing or ideal  
14                   improvement. Any remaining land area  
15                   is either excess land or surplus land.  
16          As was described briefly before. And then  
17          you have the definitions again, excess and  
18          surplus land.

19                   Madam Chair, beginning on page  
20          156, it's Appendix J, the zoning map, Bylaw  
21          9250, Chapter 5, the highlighted yellow area  
22          is the subject property, and, as you can see,  
23          the two highlighted components to the north  
24          and south as well as just to the east of the  
25          subject property listed as IV, meaning

1 industrial.

2 The following pages, page 158,  
3 Land Use Regulations.

4 On page 199 -- or 198 of that  
5 document, near the bottom it discusses stall  
6 and driveway dimensions, and then on the  
7 following page it gives the minimum required  
8 in metres with respect to stall width, curb  
9 length, stall length and driveway width.

10 On page 223 of our Appendix,  
11 here we have Table 14.8, required loading  
12 berth dimensions. So for industrial  
13 properties in particular many have loading  
14 docks, and here, based upon the zoning bylaw,  
15 it indicates the dimensions required. These  
16 areas are not being accounted for in the  
17 determination of site coverage. But it is  
18 required for the function of a structure.

19 On the following pages I have  
20 just some highlighted areas regarding loading  
21 spaces and maneuvering space.

22 In Appendix L, which is page  
23 228 - 229, the first three pages are from  
24 SAMA's website, and from that and their  
25 Market Value Handbook, I have excerpts from

1 -- or I have the Market Value Assessment  
2 Saskatchewan Handbook for Warehouses.

3 On page 247 there's a section  
4 where it says Establishing Warehouse Classes.  
5 And so these are the characteristics or  
6 attributes that can be used to classify or at  
7 least be considered by SAMA, pursuant to  
8 SAMA, in determining warehouses. And that  
9 includes things like function, size, age,  
10 condition, essential office space, floor  
11 thickness, height, location, land/building  
12 ratio.

13 On page 256 at the top it  
14 states:

15 The following comments are guidelines  
16 for selecting an appropriate  
17 capitalization rate. A number of  
18 factors can affect the capitalization  
19 rate to be applied. In general,  
20 favourable conditions may lower the  
21 capitalization rate and raise the  
22 value. Negative conditions may raise  
23 the capitalization rate and lower the  
24 value. Some of the issue to consider  
25 when establishing a capitalization

1 rate are competition, location, age  
2 and condition, design of the property,  
3 and expansion capabilities.

4 Again, bylaws limit the ability to develop.  
5 They have minimum requirements that need to  
6 be met, legally met, and as per SAMA, we have  
7 a list of criteria that need to be considered  
8 when establishing a capitalization rate,  
9 including expansion capabilities.

10 Just one moment, Madam Chair.

11 Another component to this --  
12 and this is on page 11, again paragraph 32,  
13 at the bottom -- required exterior storage  
14 for industrial properties. Like the subject  
15 property, 2216 East Emmet Hall Road, the  
16 bylaw acknowledges that there would be  
17 flammable (*inaudible*) and the other  
18 characteristics that would not work well in  
19 residential neighbourhoods, and so they have  
20 specified -- they specify this neighbourhood  
21 as medium industrial as being able to have  
22 those kinds of properties there.

23 Now, the subject having  
24 propane, needs a certain amount of exterior  
25 storage space to be able to maintain or hold

1           its product.

2                       Now, the model does not appear  
3           to account for these industrial zoned  
4           neighbourhoods' need for exterior space,  
5           although the model within its model or zoning  
6           descriptions specifically accounts for the  
7           fact that medium industrial requires outdoor  
8           and exterior storage area.

9                       Moving back towards page 111  
10          again, Excess Land and Surplus Land, I'll  
11          just read these in detail.

12                      The appraiser can identify and  
13                      quantify the land area needed to  
14                      support the existing or ideal  
15                      improvement. Any remaining land area  
16                      is either excess land or surplus land.  
17                      Surplus land does not have an  
18                      independent highest and best use and  
19                      may or may not contribute value to the  
20                      improved parcel.

21                      So the value may be as if the land were  
22                      excess or completely vacant and able to allow  
23                      for new construction or surplus land may not  
24                      achieve the kind of vacant land values that  
25                      are being applied. And on that page, on the

1 right-hand side, there are boxes with excess  
2 land and surplus land descriptions.

3 In our Appendix M we've got a  
4 confidential document, <sup>18(1)(b)</sup>

5 CHAIRPERSON: Before you continue with that,  
6 are you seeking a declaration from the Board  
7 under section 202 of *The Cities Act* that that  
8 is confidential?

9 RYAN SIMPSON: Yes, Madam Chair, I apologize.  
10 I should have requested that.

11 CHAIRPERSON: Not a problem. Um, is there  
12 any objection from the Assessor?

13 GERRY KRISMER: I don't believe so, Madam  
14 Chair. I just have some questions as it  
15 relates to it. But as well I forgot to  
16 mention at the beginning, and I apologize if  
17 it happens, I am waiting for a very, very  
18 important phone call, so if I do take a call  
19 I apologize, but I have to take it, um, so if  
20 I stand up and leave it's only because I have  
21 that phone call coming.

22 CHAIRPERSON: Thank you for that. So we'll  
23 address two things at this moment then. So  
24 the Board will declare that the contents of  
25 Appendix M are confidential for the purposes

1 of our proceedings pursuant to section 202 of  
2 *The Cities Act*. We'll prepare a written  
3 order to accompany our materials on the file  
4 on one of our breaks and have our assistant  
5 probably circulate that to you at a  
6 convenient time for all of us; so I will  
7 remember to do that.

8 If we see that Mr. Krismer has  
9 to get up and take a call, uh, perhaps then  
10 we might just adjourn for a ten-minute mid  
11 morning break if that occurs at that time and  
12 give everyone the opportunity to collect  
13 their thoughts because I don't want anything  
14 to be proceeding while one of the parties is  
15 not present. But I would like to facilitate  
16 that call if it's of course as urgent as he  
17 indicates.

18 So, um, so we will follow up  
19 on one of the breaks with that order  
20 declaring confidentiality for you. I note  
21 that there are a couple of other Appendices  
22 that requests were indicated as coming, so if  
23 you could just deal with it in the same  
24 fashion as we go along, we'll do it in that.

25 RYAN SIMPSON: Thank you, Madam Chair.



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CHAIRPERSON:

Proceed.

RYAN SIMPSON:

Thank you. Beginning on page

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Just one moment, Madam Chair,  
please.

CHAIRPERSON: Take your time.

RYAN SIMPSON: Madam Chair, if it's  
convenient for the Board, may I ask for a  
quick washroom break?

CHAIRPERSON: Sure. Let's, uh, break for 15  
minutes right now. Is that sufficient?

RYAN SIMPSON: Thank you.

CHAIRPERSON: And hopefully Mr. Krismer's  
call comes during that time and falls into  
place. So we'll stand adjourned until about  
20 past 10.

RYAN SIMPSON: Thank you, Madam Chair.

1 (Recessed at 10:06 a.m.)

2 (Reconvened at 10:24 a.m.)

3 CHAIRPERSON: All right, um, so Mr. Simpson,  
4 we'll pick up where you left off.

5 Mr. Krismer, did your call  
6 happen to come?

7 GERRY KRISMER: Unfortunately no.

8 CHAIRPERSON: Okay, we'll still sort of be  
9 on standby for that, and, uh, Mr. Simpson  
10 will continue then.

11 RYAN SIMPSON: Thank you, Madam Chair.

12 Before I spoke to our example  
13 property of 460 Albert Street on page 94. On  
14 page 95 of our Appellant's submission I have  
15 pictures of that property and it illustrates  
16 the canopies that take up a significant  
17 portion of the property or an excess portion  
18 of the property.

19 On page 97 it's a little  
20 difficult to see, but the intersection of  
21 Avonhurst and Albert Street there you'll see  
22 canopies, to the north there's a carwash,  
23 leading up to the carwash entrance there is a  
24 specified drive-through or driveway for  
25 carwash vehicles, associated parking stalls,

1 so on and so forth, and some more pictures on  
2 page 98.

3 Touching briefly with respect  
4 to the subject property and the fenced off  
5 area required for the propane tanks, that is  
6 required outdoor storage, and, as we've seen  
7 **18(1)(b)** rates or lease  
8 rates are typically lower than what you would  
9 get for simply a vacant late, the rate you  
10 apply to a vacant lot, and so the fenced off  
11 area, in Altus' position, and in other  
12 similar properties that require outdoor  
13 storage should be valued at rates similar to  
14 those we've seen on leases that have been  
15 provided or at least discounted away from the  
16 current vacant, uh, rate that's currently  
17 applied through the capitalization rate  
18 analysis.

19 Um, Madam Chair, with the  
20 Board's permission should I address my  
21 rebuttal information right now?

22 CHAIRPERSON: If it makes logical sense in  
23 your presentation at this time, um, you may,  
24 but I would also indicate that I would  
25 suggest that we not also then hear it again

1 at the end. So I think perhaps from our  
2 perspective if it makes logical sense to tell  
3 us about it now, then that would be fine, but  
4 I leave it up to you. Like I said, I just  
5 don't want to then have a representation of  
6 it at the end.

7 RYAN SIMPSON: Certainly. Um, I will discuss  
8 the components regarding the site coverage  
9 itself and then when it comes to later I will  
10 just ask that that particular argument be  
11 carried forward, if that's sufficient.

12 CHAIRPERSON: Sure. Make sure that you  
13 remember to do that though. I'm not keeping  
14 track.

15 RYAN SIMPSON: Yes, Madam Chair.

16 CHAIRPERSON: Okay.

17 RYAN SIMPSON: Madam Chair, in our 5 day  
18 rebuttal submission for Appeal 28100 the City  
19 of Regina has provided excerpts of Edmonton's  
20 industrial methodology in its 10 day  
21 submission. The full methodology can be  
22 found in Appendix E. That's on page 30 of  
23 our rebuttal submission.

24 CHAIRPERSON: And if I could just ask you to  
25 speak a little bit louder --

1 RYAN SIMPSON: Yes.

2 CHAIRPERSON: -- I note there's some air  
3 flow going on that's making it harder for us  
4 to hear you right now.

5 RYAN SIMPSON: Apologies, Madam Chair.

6 CHAIRPERSON: No worries.

7 RYAN SIMPSON: On page 30 is the Edmonton --  
8 or Edmonton's 2017 assessment methodology  
9 from -- for industrial warehouses, and this  
10 is the full methodology. The City of Regina  
11 in its 10 day submission had placed a few  
12 excerpts regarding site coverage in its  
13 document. I would just like to point out  
14 that this particular methodology has been  
15 arrived at or values properties using the  
16 direct comparison -- direct sales comparison  
17 approach, not the income approach, so I'm not  
18 exactly sure how relevant it is in this  
19 appeal, but, um, I'm sure Mr. Krismer will  
20 address it in his presentation.

21 With that, Madam Chair, I  
22 don't have any more as far as presentation  
23 with respect to the small warehouse appeals,  
24 or small industrial appeals, pardon me, but  
25 I'm more than happy to answer any questions

1 from you.

2 CHAIRPERSON: I do have one question before  
3 we turn things over to Mr. Krismer for his  
4 questions, if he has any.

5 I understand what you have  
6 presented to us. You talked about the three  
7 kinds of land, required land, surplus land  
8 and excess land, and I get a good  
9 understanding of what the intent is from the  
10 materials that you've provided to us. When  
11 we looked at the City's model at Appendix C  
12 and you had directed us to page 38, I see the  
13 term "extra land". So want I want to know  
14 from you, and I'll probably hope to either  
15 hear that from the Assessor or I'll have the  
16 same question for the Assessor, what's the  
17 nuance or difference with the use of the word  
18 "extra land" because it's not the same as  
19 required, surplus or excess, or is it the  
20 same as any of those? I know it wouldn't be  
21 the same as required. But what does that  
22 mean to me?

23 RYAN SIMPSON: Thank you, Madam Chair. My  
24 understanding is that the extra land formula  
25 is with respect to excess land, so the

1 surplus land, my understanding is, accounted  
2 for in the capitalization rate adjustment,  
3 and then the extra land formula is for  
4 anything that falls below I believe it's 8  
5 percent for site coverage, they determine an  
6 excess land value.

7 CHAIRPERSON: So is it excess or extra? I'm  
8 seeing differences in the definitions that  
9 I've been provided, um, just because the  
10 words are different, and I don't know if I'm  
11 reading too much into it or if I should be  
12 aware that there's a nuance or something  
13 different to that.

14 RYAN SIMPSON: My understanding is that it  
15 references excess land, but I'm -- it might  
16 be better for the City to --

17 CHAIRPERSON: Okay.

18 RYAN SIMPSON: -- answer that.

19 CHAIRPERSON: Okay. And to be fair, I had  
20 indicated that I would be posing the same  
21 question to --

22 RYAN SIMPSON: Certainly.

23 CHAIRPERSON: -- to the Assessor as well. I  
24 just -- uh, because there's so many different  
25 kinds of land that we're speaking about and



1 we're seeing so many different kinds of  
2 qualifiers, I want to make sure that I'm not  
3 missing something because I think that it's  
4 important for us to -- as the Panel -- to  
5 know, uh, the intent behind each of the  
6 different labels.

7 RYAN SIMPSON: That makes sense.

8 CHAIRPERSON: Okay. Thank you. All right.

9 So, Mr. Krismer, do you have any questions  
10 for the, uh, for Mr. Simpson?

11 GERRY KRISMER: I do, Madam Chair, and I'll  
12 start backwards, seeing that that's the  
13 fresher part we have.

14 **CROSS-EXAMINATION BY MR. KRISMER:**

15 Q Mr. Simpson, in your rebuttal submission you  
16 made the comment that, um, that this land  
17 area that's associated with these costed  
18 items would be typically removed from the lot  
19 size and that's, um, established in the  
20 Edmonton guide. Can you point me where in  
21 that guide it says that the area of the land  
22 associated with the cost items be removed  
23 from the lot size?

24 A Madam Chair, I believe I'd said with respect  
25 to the rebuttal documents that it was valued

1 using the direct sales comparison approach.  
2 I'd have to, uh, scroll through the rest of  
3 the documents to find what Mr. Krismer is  
4 asserting.

5 Q Mr. Simpson, at paragraph 4 of your rebuttal  
6 submission you make the statement:

7 The Assessor in his 10 day submission  
8 provided excerpts from Edmonton's  
9 industrial methodology. The full  
10 methodology can be referenced in  
11 Appendix D. In speaking with our  
12 Altus staff in Edmonton and through  
13 the correspondence with the Edmonton  
14 Assessment Department, the issue of  
15 costed item areas has been typically  
16 resolved through the removal of those  
17 areas from the lot size.

18 That's your statement. I didn't make the  
19 allegation at all around direct sales, so  
20 where in that document does it state that the  
21 area for the costed buildings is removed from  
22 the lot size?

23 A It's not in that document.

24 Q You would agree that at page 20 of your  
25 rebuttal submission, and dealing with the

1 area of the cost of buildings, you would  
2 agree that it actually states:

3 Area of the cost buildings is excluded  
4 from the site coverage calculation.

5 You'd agree with that statement?

6 A I would say that in my discussions referring  
7 back to paragraph 4 that right under the  
8 income approach it would typically remove the  
9 -- but based upon --

10 Q But where -- where in that document does it  
11 state that, Mr. Simpson?

12 A Well, that document specifically refers to  
13 the direct sales comparison approach, so it  
14 doesn't.

15 Q Where in your documentation do you have  
16 evidence to support that statement at  
17 paragraph 4?

18 A I don't believe I have.

19 Q You have no evidence to support that  
20 statement?

21 A Correct.

22 Q Okay. Now, you stated that you don't know  
23 the relevancy of that Edmonton document  
24 because Edmonton values the properties on the  
25 sales comparison approach versus the City of

1 Regina valuing it on the income approach.  
2 Would you agree with me that in the sales  
3 comparison approach that they would take the  
4 sale price per square foot of building into  
5 consideration?

6 A I'm not sure.

7 Q And you would agree that on the income  
8 approach that the City of Regina Assessor's  
9 model that the value of the property is  
10 derived at by capitalizing the income of the  
11 building; correct?

12 A For the income approach it's derived by  
13 calculating the model income for the  
14 building.

15 Q Correct. So if there's income to the  
16 property outside of the building, that  
17 wouldn't be included in the Assessor's model;  
18 would that be correct?

19 A With respect to the City's model or  
20 Edmonton's model?

21 Q Within the City's model. We're dealing with  
22 the income approach.

23 A So the rates as far as not in the model, um,  
24 based upon our example, 460 Albert Street,  
25 are valued under costs and added as lump

1           sums.

2           **Q**   No no no no, I'm talking income approach, I'm  
3           talking the industrial model --

4           **A**   Okay.

5           **Q**   -- and I'm asking you, you would agree, Mr.  
6           Simpson, that the value of the assessment  
7           that the Assessor puts on the role is derived  
8           by capitalizing the income associated to the  
9           building and that there is no income outside  
10          the building included in the Assessor's  
11          income model.  Would that be a correct  
12          statement?

13          **A**   Yes.

14          **Q**   So if there is income associated to say the  
15          land, the Assessor hasn't included that in  
16          the income necessarily that he's capitalized;  
17          would that be a correct statement?

18          **A**   I believe it's calculated through the cap  
19          rate.

20          **Q**   But not specifically income?

21          **A**   Not specifically the net income value.

22          **Q**   18(1)(b)

23                Appendix M, Mr. Simpson, and just for the  
24                Board's purpose I'm going to start with the  
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Q I just have a couple questions, Madam Chair,  
and I'm just going to draw this out. Mr.  
Simpson, are you a member of the Appraisal  
Institute of Canada?

1 A I am not, Mr. Krismer.

2 Q Are you a member of the International  
3 Association of Assessing Officers?

4 A I am not, Mr. Krismer.

5 Q Are you a licensed assessor within  
6 Saskatchewan?

7 A I am not a licensed assessor in Saskatchewan,  
8 Mr. Krismer.

9 Q Have you ever worked for an assessment  
10 jurisdiction?

11 A I have not worked for an assessment  
12 jurisdiction, Mr. Krismer.

13 Q Thank you, Madam Chair. Now, starting at the  
14 very beginning, the allegation is that this  
15 methodology the Assessor is using doesn't  
16 conform to mass appraisal principles because  
17 the individual cap rate applied to each  
18 property could be different; is that correct?

19 A Do you want me to answer that one, Mr.  
20 Krismer?

21 Q That's -- I'm asking you that.

22 A Oh. Um, yes.

23 Q So if a property receives a different cap  
24 rate than another property, does that offend  
25 mass appraisal in your opinion?

1           A     With respect to our submission on page 10,  
2                     paragraph 25, and in paragraph 12 under the  
3                     heading of The New Assessment Scheme, the  
4                     Court in *Sasco* spoke -- or the Court spoke in  
5                     detail of the process surrounding mass  
6                     appraisal. It emphasized such terms as a  
7                     group of properties as a group of similar  
8                     properties and the term common data may be  
9                     taken to mean pieces of information in the  
10                    form of facts and statistics pertaining to  
11                    market value and common to a group of similar  
12                    properties.

13           Q     So my question, Mr. Simpson, was that if I  
14                     apply a different cap rate to different  
15                     properties, does that offend mass appraisal?

16           A     Within a group, uh, that particular group has  
17                     a cap rate, so --

18           Q     Okay. So at page 38 of your submission, Mr.  
19                     Simpson, that's the, uh, summary of the  
20                     Assessor's model from the website?

21           A     Yes.

22           Q     We see in there that we start with a base cap  
23                     rate of 6.862; correct?

24           A     Yes.

25           Q     And if you're a condominium that cap rate is

1 reduced by 1.101; is that correct?

2 A Yes.

3 Q We then make an adjustment for site coverage  
4 of less than 30 percent of negative .060 per  
5 percentage less than 30 percent; correct?

6 A In our calculations I think it goes more than  
7 just the per percent point.

8 Q Whichever. It's a negative .060; is that  
9 correct, per percentage point?

10 A Well, it's negative .060 per percentage point  
11 to, I guess the 100<sup>th</sup> decimal point.

12 Q Then there's an area adjustment of 10,000 --  
13 from 10,000 square feet higher per 1,000  
14 square feet of a positive .044; is that  
15 correct.

16 A That's correct.

17 Q So if a property is 40 -- or say 39,000  
18 square feet, it will receive a different  
19 adjustment than a property that is 40,000  
20 square feet; is that correct?

21 A Yes.

22 Q Does that adjustment conform to mass  
23 appraisal?

24 A Based upon *Sasco* -- well, with respect to the  
25 *Sasco* interpretation it wouldn't, but based

1                   upon how the City's done it in various  
2                   models, I believe our position is that it is.

3           **Q**       So is it your position it does or doesn't  
4                   conform to mass appraisal?

5       ARCHIE FIELDGATE:           I think, Madam Chair, we'll  
6                   have to leave this up to the Board to decide  
7                   on the -- on this. The Court was quite clear  
8                   they were talking about groupings of  
9                   properties and I -- I know there's a fine  
10                  line here, so I think we'll have to leave it  
11                  up to the Board at the end of the day.

12       CHAIRPERSON:               So then can I summarize in a  
13                  fair way to both sides that, uh, Mr.  
14                  Simpson's or your answer to Mr. Krismer's  
15                  question would be that he is not going to  
16                  directly answer the question but leave it up  
17                  to the Board as a matter of interpretation?

18       ARCHIE FIELDGATE:           That's correct, Madam Chair.

19       **Q**       And just to be clear then, and I want to --  
20                  and on that point, Madam Chair, and I thank  
21                  you for that -- just to be clear then,  
22                  there's no documentation that you have in  
23                  your submission other than for the Court of  
24                  Appeal's decision that states that the  
25                  Assessor's site coverage adjustment doesn't

1 conform to mass appraisal; is that correct?

2 A Yes.

3 Q And you would agree in *Sasco* that the issue  
4 there was applying the actual vacancy of the  
5 property in comparison to the typical vacancy  
6 of the group? You'd agree with that? The  
7 question was you'd agree that the issue that  
8 the Court was dealing in *Sasco* -- dealing  
9 with in *Sasco* was that dealing with applying  
10 the actual vacancy of the subject property in  
11 comparison to the typical vacancy for the  
12 group of properties; is that correct?

13 A Sure. Yes.

14 ARCHIE FIELDGATE: Could I comment on that  
15 question as well, Madam Chair? I know Mr.  
16 Simpson is being crossed.

17 CHAIRPERSON: Um, it seems to me that the  
18 two of you, um, put your submissions in  
19 together and that perhaps you would want him  
20 speaking to *Sasco*, Mr. Fieldgate --

21 RYAN SIMPSON: Yes.

22 CHAIRPERSON: -- and I haven't heard any  
23 objection to the two of you conferring on  
24 some of the answers, and I think in the  
25 circumstances because you did give the

1 initial presentation, if you have something  
2 that you could provide by way of an answer  
3 that would help us, I'd be happy to hear it.

4 ARCHIE FIELDGATE: Well, in my opinion, Madam  
5 Chair, there's more than just -- it's a fact  
6 that we put out there before the Board of  
7 Revision the actual income and expense  
8 information of that particular hotel just to  
9 show there was something wrong in the sense  
10 of between the 5.2 million and the 8.7, and,  
11 as I said, we did not expect to win the whole  
12 nine years at the Board of Revision. We  
13 wanted to put the assessment in doubt and  
14 have SAMA take another look at the whole  
15 thing and correct the SAMA -- they did that  
16 for the last three years of the cycle, they  
17 re-jigged their model and dropped the value  
18 down of that hotel where it's more  
19 reasonable, very close to -- not close to the  
20 5.2, close to -- much better than the 8.7.  
21 So the credit to SAMA they did re-jig their  
22 whole model, but it didn't happen -- it  
23 didn't help for the first year of the cycle  
24 at the Court of Appeal.

25 But the point is is that what

1 I'm getting at is that the Court was very  
2 clear you can't use single property appraisal  
3 techniques, and my client says if I get an  
4 individual cap rate assessment, that's --  
5 we're getting pretty site specific, and, uh,  
6 I'm simply replying to the inquiries that my  
7 clients were making, Madam Chair. They don't  
8 quite get their head around it.

9 And I know you can find --  
10 anybody can find examples -- the Assessor can  
11 find an examples where he can destroy your  
12 whole argument and you can always pick out a  
13 property that's going to support what we're  
14 saying, but I think it's down to  
15 interpretation of that court case and what  
16 they're saying. And, uh --

17 GERRY KRISMER: I have to break, Madam Chair.  
18 Sorry.

19 ARCHIE FIELDGATE: Oh. That's fine.

20 CHAIRPERSON: So we'll -- we'll break at  
21 this point then for 15 minutes?

22 ARCHIE FIELDGATE: Thank you. That's fine.

23 CHAIRPERSON: Let's take a 15-minute break.

24 ARCHIE FIELDGATE: Thank you, Madam Chair.

25 *(Recessed at 11:11 a.m.)*



1 (Reconvened at 11:27 a.m.)

2 CHAIRPERSON: All right, so I think where we  
3 left off was, um, Mr. Krismer had put a  
4 question out about Sasco and Mr. Fieldgate  
5 was answering it, um, and I'm not sure if  
6 there's anything more that you want to add or  
7 -- or whether or not Mr. Krismer, um, wishes  
8 to pursue that line of questioning anymore.  
9 So, Mr. Fieldgate, I'll leave it in your  
10 hands to let us know whether or not you have  
11 had the opportunity the finish answering that  
12 question.

13 ARCHIE FIELDGATE: Thank you, Madam Chair.

14 We, uh -- I'm not convinced I  
15 -- they can do this type of thing in other  
16 provinces, I understand that. I'm not  
17 convinced you can do it in Saskatchewan given  
18 the restriction put in the legislation to do  
19 with single property appraisal techniques.  
20 And the thing that kind of concerns me  
21 somewhat, uh, on page 8 of the City's  
22 submission they talk about the valuation  
23 standard and they talk about the valuation  
24 handbook, and it seemed to me if you're going  
25 to -- if you're going to do something that's

1 I call this radical, where you're going to  
2 have a single cap rate for each property to  
3 try and capture what they allege is excess  
4 land on -- or extra land and excess land on a  
5 property, you would think they would have had  
6 the handbook amended through SAMA or even  
7 through a Board order or something to put  
8 this procedure in place. But, uh, Mr.  
9 Krismer talked about Edmonton, and the Court  
10 of Appeal was very clear that the assessment  
11 is different in other provinces, and, uh, it  
12 seemed to me if you can't refer to court  
13 cases in Alberta, how you can look to their  
14 procedures in Alberta as well, right, and  
15 British Columbia. And that's our only  
16 concern, Madam Chair.

17 **CROSS-EXAMINATION OF MR. FIELDGATE BY MR. KRISMER:**

18 **Q** So just -- again, just on that, Mr.  
19 Fieldgate, and if a property had -- if two  
20 properties had the same site coverage, they  
21 would get the same cap rate; you'd agree with  
22 that?

23 **A** Yes, I would.

24 **Q** So it's not specific to any one property,  
25 it's specific to a group of properties;

1 correct?

2 A Well, there you have a group of two you're  
3 talking about I guess.

4 Q Group of ten.

5 A If you want to get down to it.

6 Q Group of ten, group of 20.

7 A That's correct, yeah.

8 **CROSS-EXAMINATION OF MR. SIMPSON BY MR. KRISMER:**

9 Q Mr. Simpson, I just had a question. We're  
10 dealing in this group of appeals here, Mr.  
11 Simpson, with industrial properties. At page  
12 94 of your submission you referenced a  
13 property on Albert Street. You would agree  
14 that that is a commercial property and is not  
15 part of the industrial model; is that  
16 correct?

17 A Correct.

18 Q So what is the relevancy of that property?

19 A Uh, it was to establish that costed items,  
20 although being valued and costed, are not  
21 being considered in the site coverage  
22 calculation.

23 Q So are there any cost items on the subject  
24 property?

25 A On 2216 East Emmet Hall Road?

1 Q Correct.

2 A Uh, no.

3 Q No. So it's not relevant to the subject  
4 appeal then; is that correct?

5 ARCHIE FIELDGATE: If I may, Madam Chair, it was  
6 just a simple example we wanted to use 'cause  
7 again this is a big deal for all our clients  
8 for next week on Tuesday and Wednesday and we  
9 wanted to show if -- if the Board of Revision  
10 for Regina decides that this methodology is  
11 fine and has nothing to do with the Sasco  
12 case, and we're saying -- and our clients are  
13 saying that well, they should look at a lot  
14 more than just simply the footprint of the  
15 building. And that's why that's in that  
16 particular document, just to show that --  
17 it's a good example we had just down the  
18 street from our office actually; that's why  
19 we threw it in there. That's the long and  
20 short of it actually.

21 Q Mr. Simpson, you made a number of allegations  
22 as relates to the required amount of land for  
23 a property, what they can and cannot do with  
24 it in accordance with the zoning bylaw. Did  
25 you inquire with the City of Regina Planning

1 Department before you made those statements?

2 A Yes.

3 Q And is it your position that the zoning bylaw  
4 requires properties to have outdoor storage  
5 space if they're zoned IV?

6 A Based upon the model it indicates that it's  
7 part of the medium industrial zoning  
8 description.

9 Q You would agree that the zoning of IV allows  
10 for outdoor space but does not require  
11 outdoor space? Would you agree with that  
12 statement?

13 A I suppose.

14 Q So there's no requirement in the zoning bylaw  
15 to have outdoor space; it just allows for it  
16 if they choose to have it?

17 A Yes.

18 Q At page 139 of your submission you're  
19 referencing a document from the Municipal  
20 Property Assessment Corporation, MPAC, out of  
21 Ontario. I do note that that's a copyrighted  
22 document and I'm assuming you did get the  
23 agreement or the rights to copy this  
24 document? Page 139 of your submission.

25 A I'd have to double-check with my colleagues.

1           Q    At page 139 of the submission you were  
2                   referencing -- and this is dealing with lands  
3                   in transition. Is the subject property lands  
4                   in transition?

5           A    No.

6           Q    No. So there's no lands in transition at  
7                   this point in time. You were making the  
8                   statement that people wouldn't buy or lease  
9                   properties with high site coverage. Now, in  
10                  your submission you made the statement that  
11                  the sales included properties from 9 to 88  
12                  percent site coverage, so from that you would  
13                  agree that people do buy properties with high  
14                  site coverage? You'd agree with that  
15                  statement?

16          A    Um, based upon the written material, yes.

17          Q    Written materials what, that people do buy  
18                  and lease industrial properties evidenced by  
19                  the sales of up to 88 percent site coverage;  
20                  correct?

21          A    Yes.

22          Q    So you'd agree that the evidence shows that  
23                  you can actually build out a site to 88  
24                  percent site coverage and still conform to  
25                  the City's zoning bylaws?

1 A Yes.

2 Q Now, at page 247 of your submission you  
3 reference that, and I notice you pushed over  
4 it fairly quickly -- you'd agree that that is  
5 an excerpt from the Market Value Assessment  
6 Handbook in Saskatchewan, and you would agree  
7 that that page at the bottom, the statement  
8 is:

9 The following characteristics are  
10 examples of attributes that can be  
11 used to classify warehouses.

12 And you'd agree at the bottom of that page is  
13 a land to building ratio; is that correct?

14 A Yes.

15 Q So in the Handbook it does contemplate land  
16 to building ratios or site coverages within  
17 Saskatchewan; is that correct?

18 A My interpretation is, uh -- yes, I suppose.

19 Q So again at page 256 of the Handbook -- or  
20 page 256 of your submission it's another  
21 excerpt from the Handbook, and at the top of  
22 the page it states:

23 The following comments are guidelines  
24 for selecting an appropriate  
25 capitalization rate.

1           It states a number of factors -- competition,  
2           location, age and condition, design of the  
3           property, and expansion capabilities.

4           A     Yes.

5           Q     You would agree with me if I were to suggest  
6           that a site coverage -- a low site coverage  
7           or site coverage as a whole is contemplated  
8           in number one, the design of the property,  
9           and the expansion capabilities of the  
10          buildings on the property? You would agree  
11          with that statement?

12          A     Yes.

13          Q     So again, those features are contemplated in  
14          mass appraisal within Saskatchewan; you'd  
15          agree with that?

16          A     Yes.

17          Q     Just turning to your document, now, at page 8  
18          of your submission it states that the  
19          Assessor only considers the footprint of the  
20          buildings that are located in the site. Such  
21          areas of the site that are covered with  
22          canopies, fuel tanks, business signage,  
23          etcetera, are not being considered within the  
24          site specific formula. Are you suggesting  
25          that the zoning bylaw takes into



1 consideration underground fuel tanks,  
2 business signage, garbage bins, etcetera,  
3 when establishing their site coverage  
4 requirements?

5 A The zoning bylaws take into consideration,  
6 um, parking, driveways, etcetera, and it's  
7 our position that fuel tanks and canopies,  
8 for example, um, take up a certain amount of  
9 area and so as far as building out or -- or  
10 -- that when it comes to expansion  
11 capabilities you can't build on top of those  
12 fuel tanks, you can't build underneath those  
13 canopies.

14 Q So you're suggesting that the zoning bylaw  
15 takes into consideration things like --

16 A No, I didn't --

17 Q -- fuel tanks --

18 A -- say that.

19 Q -- business signage, garbage bins, etcetera?

20 A I didn't say that.

21 Q So that you would -- are you then saying that  
22 the zoning bylaw, if there are fuel tanks on  
23 the site, that that area that is occupied by  
24 the fuel tanks underground are part of the  
25 zoning bylaws requirements when it comes to

1 site coverage?

2 A The City of Regina's local zoning bylaw I  
3 don't believe addresses that specifically. I  
4 believe there are provincial regulations that  
5 speak to, um --

6 Q No no, I've been dealing with your comment in  
7 regards to the zoning bylaw --

8 A For the City of Regina.

9 Q -- for the City of Regina --

10 A Okay.

11 Q -- dealing with tanks, business signage,  
12 garbage bins, etcetera. Are those part of  
13 the City zoning bylaw calculations for site  
14 coverage requirements?

15 A I don't believe so.

16 Q At page 10 of your submission, paragraph 31,  
17 you state:

18 The local market demonstrates that  
19 industrial land leased for storage  
20 rents at a significantly lower level  
21 than what the City of Regina  
22 industrial model applies.

23 Does the City of Regina industrial model  
24 apply a rent rate to leased land?

25 A Not a rent rate.

1           Q     Right.  So that statement there is not  
2                   correct in that it states:

3                   The local market demonstrates that  
4                   industrial land leased for storage  
5                   rents at a significantly lower level  
6                   than what the City of Regina's  
7                   industrial model applies.

8           You'd agree the City of Regina industrial  
9           model does not apply a rent rate for vacant  
10          land -- or for land?

11          A     The value --

12          Q     Do you agree it doesn't apply a rent rate for  
13                  land?

14          A     Can I speak?  The model, based upon the site  
15                  coverage, applies a negative adjustment to  
16                  the valuation as it relates -- okay, so --  
17                  let me start again.  Between 30 percent down  
18                  to 8 percent there is a -- let's say that's  
19                  where your site coverage falls, right?  The  
20                  difference between that 30 percent and what  
21                  your site coverage is, the adjustment that's  
22                  applied results in a lower cap rate and a  
23                  higher assessment.  So the difference between  
24                  what would be typical at 30 percent and what  
25                  the I guess if you call it surplus land,

1           which is how you're valuing -- or extra land  
2           I'll use for the model, um, working -- extra  
3           land, the difference between what is typical  
4           and being applied the, uh, 6.862 cap rate  
5           versus the cap rate as it pertains to the  
6           site coverage and the reduction cap rate  
7           developed from that site coverage  
8           calculation, the amount, the valuation, is  
9           the extra land that is being derived and that  
10          is what was meant by that statement.

11          **Q**   And do you have evidence to prove that  
12          statement?

13          **A**   I don't know what you mean.

14          **Q**   Well, you just stated that the value of the  
15          -- the value that we had through the cap  
16          rate, if I turn that statement inside-out  
17          then, the local market demonstrates that  
18          industrial land leased for stogie rents at a  
19          significantly lower level than what the City  
20          of Regina -- and I'll correct that or change  
21          that -- the City of Regina's adjusted cap  
22          rate model applies. Do you have evidence to  
23          support that statement?

24          **A**   Not with me.

25          **Q**   No. Okay. So again I'm going to turn to

1 page 12, and just for clarification, at  
2 paragraph 35 you're talking about the zoning  
3 bylaw section 14(c) describes the loading  
4 regulations, and you state that these loading  
5 areas are required -- further, these  
6 industrial locations require outdoor storage  
7 for storage supplies. You'd agree that the  
8 zoning bylaw again does not require outdoor  
9 storage, it's just the use of the property  
10 that could be put to outdoor storage? Is  
11 that correct?

12 A Yes.

13 Q So you'd like to correct that statement, that  
14 it's not the zoning bylaw that requires the  
15 outdoor storage, just that the properties, if  
16 they what outdoor storage, must be zoned IV?

17 A If it allows for clarification, sure.

18 Q Turning to page 111 of your submission, again  
19 dealing with a copy of the Appraisal  
20 Institute of Canada Land and Site Analysis  
21 under Excess Land, and I notice you -- you  
22 avoided to state that, but it states that  
23 excess land has a potential to be sold  
24 separately and must be valued separately.  
25 You'd agree with that statement?

1 A Yeah, I've highlighted the heading.

2 Q But you would agree that this digest suggests  
3 that excess land must be valued separately;  
4 correct?

5 A Uh, yes.

6 Q And again, referencing page 154 of your  
7 submission, from MPAC again, how they  
8 describe excess land, surplus land, and it  
9 states that excess land again would be valued  
10 separately and that surplus land may or may  
11 not contribute to the value of the improved  
12 parcel. You would agree with that --

13 A Yes.

14 Q -- statement? Yes. Do you have any evidence  
15 to show that surplus land in the city of  
16 Regina does not add to the value of the  
17 improved parcel?

18 A No, we have leases that show it's less than  
19 the modeled base of 10.75.

20 Q Do you have any evidence in your documents  
21 here today --

22 A No.

23 Q -- that show that surplus land does not add  
24 to the value of the improved parcel within  
25 Regina?

1           A     No.

2           GERRY KRISMER:           Those are all my questions,  
3                           Madam Chair.

4           RYAN SIMPSON:           Thank you.

5           **CROSS-EXAMINATION CLOSSES.**

6           CHAIRPERSON:           Mr. Simpson or Mr. Fieldgate,  
7                           you do have the opportunity to, um, re-  
8                           direct, ask anything that you feel needs  
9                           clarification arising out of the questions.  
10                          Um, are you in a position to do that now, or  
11                          would we prefer to take a lunch break, you  
12                          can check over your notes and we could  
13                          reconvene in an hour's time?

14          ARCHIE FIELDGATE:       We prefer to check over our  
15                           notes through lunch.

16          CHAIRPERSON:           So my clock indicates about  
17                           ten to 12, so is everyone okay if we come  
18                           back at ten to 1, or is 1 o'clock okay? How  
19                           are we doing for time?

20          GERRY KRISMER:        As sports call it, Madam, I'm  
21                           good either way. Ten to 1, 1 o'clock is  
22                           fine.

23                           I just want to give a -- some  
24                           food for thought over the lunch hour as well.  
25                           Um, and I'll try to explain why -- why -- why

1           this is the way it is.

2                         Within their 5 day rebuttal  
3           submission they included a CV from an  
4           individual that I fully expect will be a  
5           witness here this afternoon or sometime in  
6           the next two days speaking to some  
7           statistical, um, measures. That's the first  
8           we would have heard about it, and in order to  
9           rebut that information I need an expert  
10          witness on our side. I do have one with me,  
11          but -- but I want a very good expert witness  
12          on our side as well. We've reached out to  
13          this individual, um, over the weekend and  
14          received a response back via email. Um, that  
15          was the phone call I was waiting for, Madam  
16          Chair, to see if the individual would be  
17          available for a phone call, um, discussion,  
18          on the -- to speak to his email and -- and  
19          allow the -- the Appellants the opportunity  
20          to -- to cross-examine this witness. It may  
21          be a little bit out of order only because  
22          this individual is in a bike race, a foot --  
23          or a pedal bike race all day tomorrow and is  
24          not available, and it's our only opportunity  
25          today between 3:30 our time and 4:30 our time



1 to reach this individual. He is available  
2 during that timeframe to speak to his email  
3 and will gladly take any questions as relates  
4 to that email, understanding that that really  
5 doesn't come into play until after the  
6 Appellants have put their case in, I  
7 understand that, which might happen tomorrow.  
8 So I don't know how the Board wants to  
9 proceed on that.

10 The only opportunity would be  
11 for us to then of course adjourn the hearing  
12 until such time as this individual could be  
13 around, which really complicates a lot of  
14 matters with the Board, I understand. But we  
15 do have his email here, but I would like the  
16 Appellants an opportunity -- they can read  
17 his email right now, listen to him this  
18 afternoon, prepare for cross-examination on  
19 him this afternoon, understanding that that  
20 testimony may not apply until the next appeal  
21 case, but I'd be gladly willing to share with  
22 them right now allowing full disclosure on  
23 his points.

24 CHAIRPERSON: Let's start with, uh, you  
25 provide the email to Mr. Fieldgate and Mr.

1 Simpson, um, and then, uh, that gives them  
2 the lunch hour to look at it and determine,  
3 um, their view.

4 Um, if we have to -- I guess  
5 I'm hearing two options that I'll leave with  
6 both parties. One is to hear evidence a  
7 little bit out of order in order to  
8 facilitate an expert. The other is to hear  
9 evidence in order and determine whether or  
10 not -- well, if we get through things by  
11 3:30, 4:30, it may be a moot point, but if we  
12 don't, then we would make efforts to  
13 reconvene on another date to have your  
14 rebuttal expert heard.

15 Um, so we'll leave those  
16 options with you. I'll hear from both of you  
17 just briefly when we come back your initial  
18 thoughts. My inclination is to see where we  
19 get today, because that may answer the  
20 question for us. However, if we do not, one  
21 very rare, uh, difference that we have this  
22 year compared to others is that I believe  
23 this is the first time in about 20 years that  
24 we have been given an extension of our  
25 deadline to hear appeals. So while we have a

1           tight timeline still, we -- we have the  
2           potential for some leeway in dealing with  
3           adjournments and especially when it comes to  
4           an expert, I mean, I would -- I would want to  
5           make sure that we hear from them. And so  
6           that's not out of the question for us to be  
7           able to find another day, it's just a matter  
8           or coordinating that between both sides and  
9           the three of us. Does that sound fair?

10       GERRY KRISMER:           Yes. There's -- there's -- I  
11           think there's a third option and we could  
12           avoid just even having the expert testify if  
13           the Appellants let his email just come in  
14           without any opposition to the email. The  
15           beauty part, Madam Chair, is -- and, I mean,  
16           I'm putting my hand out there to say this is  
17           what this individual is going to speak to.  
18           They have their expert witness right here  
19           right now. They can confer over lunch and be  
20           lined up or say he's right, wrong or  
21           whatever. So they could come back after  
22           lunch and say yeah, let's do it, we're ready  
23           for it, let's call him at 3:30 and we  
24           proceed. Or no, there's no point in calling  
25           him, but let the email come in because

1           there's nothing that we would ask him  
2           anyways.

3           CHAIRPERSON:           That is a viable option as  
4           well. So why don't -- in that case then why  
5           don't we do this. Um, given that there's  
6           something extra to discuss over the noon hour  
7           and it would require a discussion with your  
8           expert witness, Mr. Fieldgate and Mr.  
9           Simpson, let's take a bit more time over our  
10          lunch break because it may end up saving us  
11          more time at the end of the day if you decide  
12          that you don't object to the email going in.  
13          And of course we haven't seen the email, so  
14          can't say whether or not that would happen,  
15          but I think that that sounds like a fair, uh,  
16          period of time for you to consider all of the  
17          things that you need to consider, plus grab  
18          something to eat.

19                           So let's come back at 1:15,  
20          and at that point you will be telling us  
21          whether or not you have any comments in re-  
22          direct, and then we'll do some appeal  
23          management in terms of what we will do with  
24          the expert. Okay? So we'll stand adjourned  
25          until 1:15.

1 GERRY KRISMER: Thank you, Madam Chair.

2 *(Recessed at 11:55 a.m.)*

3 *(Reconvened at 1:15 p.m.)*

4 CHAIRPERSON: All right, are we ready to  
5 proceed?

6 ARCHIE FIELDGATE: Yes, Madam Chair.

7 CHAIRPERSON: Okay, so where we left off  
8 was, um, matters in re-direct from your  
9 cross-examination; so do you have anything in  
10 that respect?

11 ARCHIE FIELDGATE: We do not, Madam Chair.

12 CHAIRPERSON: Thank you. Then the other  
13 question that, uh, we posed over the lunch  
14 hour break was, uh, the issue of Mr.  
15 Krismer's expert. Tell me what has  
16 transpired.

17 RYAN SIMPSON: We have no objection, Madam  
18 Chair.

19 CHAIRPERSON: So no objection to the email  
20 being put in or no objection to the expert  
21 appearing today or at a later date?

22 RYAN SIMPSON: No objection to the expert  
23 appearing. As far as the email, um, Altus'  
24 position is not to accept it, but we will  
25 accept the testimony from Mr. Krismer's

1 expert witness today.

2 CHAIRPERSON: So we can hear from him today  
3 regardless of where we are in the  
4 proceedings? Is that the understanding that  
5 we have?

6 RYAN SIMPSON: Well, may I propose, um, if  
7 Mr. Krismer's willing, that we can maybe put  
8 an adjournment for the current appeals, open  
9 up the appeals with respect to the size  
10 issue, go through the size issue, allow Altus  
11 to present our expert witness, Mr. Krismer  
12 can attest -- or can cross-examine, and then  
13 by that point, um, it should be around the  
14 time I believe that was mentioned for his  
15 expert witness to call in and testify, and  
16 then that gives us the ability to cross-  
17 examine today; and then, um, once that's  
18 concluded, then I believe it would be Mr.  
19 Krismer's turn for his, um, information, and  
20 then allowing us to cross-examine him on it  
21 and then both parties would be allowed to  
22 close, provide their summary remarks, and  
23 Altus' argument and evidence regarding the  
24 site coverage issue, uh, will be carried  
25 forward to the other appeals that have the

1 size issue as well.

2 CHAIRPERSON: Okay. So that I understand  
3 correctly, and then I'll hear from Mr.  
4 Krismer, so we would suggest that at this  
5 point we adjourn this appeal, we call the  
6 other lead appeal, Altus will have their  
7 expert testify and be cross-examined. Mr.  
8 Krismer will then have his expert testify and  
9 be cross-examined. We will then adjourn that  
10 appeal and then come back to 28100 and pick  
11 up with where the City is presenting their  
12 evidence. Is that what you're suggesting?

13 RYAN SIMPSON: Yes, Madam Chair. I believe,  
14 um, Mr. Krismer said, uh, his expert witness  
15 would be unavailable tomorrow and Mr. Miller  
16 would be unavailable tomorrow, and so by  
17 doing it that way I believe they'd both have  
18 the opportunity to speak today.

19 CHAIRPERSON: Mr. Krismer, does that provide  
20 you with the opportunity that you're looking  
21 for for your witnesses?

22 GERRY KRISMER: It does, Madam Chair, and I  
23 guess that's why I proposed with the start of  
24 610 Henderson right off the bat, I think we'd  
25 be at that point now. Just a note that I do

1           have two witnesses here that are taking time  
2           away from their job with the City to speak to  
3           issues that we were going to deal with in the  
4           first appeal like right now, and it's -- and  
5           it's -- it's not smooth either way we could  
6           do it, but, um, if we can guarantee that we  
7           could be ready for our witness at, uh, 3:30  
8           our time, that would be workable, enough time  
9           to get through that witness and then Mr.  
10          Miller, the 610. If the Board feels they can  
11          separate now, stop and come back at another  
12          time, I guess it's -- it's accommodating our  
13          request.

14          CHAIRPERSON:                All right. The Board is of  
15          the view that we'd like to hear the experts  
16          consecutively as -- as we think that that  
17          will be the most helpful for us. So what we  
18          would propose to do with the consent of the  
19          parties is adjourn Appeal 28100 for the time  
20          being, uh, preferably hear from the experts  
21          as, you know, as quickly or -- well, as  
22          shortly thereafter as we can once calling  
23          28122, keeping in mind that we are going to  
24          hear from Mr. Krismer's expert at 3:30, and  
25          will he be testifying by telephone?



1 GERRY KRISMER: That's correct.

2 CHAIRPERSON: Okay. Um, and then perhaps if  
3 the witnesses that were here for 28100 if  
4 they -- if they have other items to attend to  
5 perhaps they could return at 3:30 and be on  
6 standby as soon as we complete with that,  
7 we'll come back to 28100.

8 GERRY KRISMER: That sounds great. Um, yeah,  
9 I mean, we could throw a lot of possibilities  
10 out there that we could hear from their  
11 expert, be done in half an hour and we'd have  
12 to wait 'til 3:30 before I can call our  
13 witness. So --

14 CHAIRPERSON: If we needed to take a five-  
15 minute break to -- for you to call, uh, them  
16 where they are and to come back if we can  
17 keep going we will. I want to accommodate  
18 the witnesses. I don't want them sitting  
19 here doing not much while they could be doing  
20 something more at their respective desks or  
21 wherever they may be.

22 GERRY KRISMER: That's -- I think they're  
23 available pretty much on call, uh, so it's  
24 just a matter of us making a call. They  
25 could be back down this afternoon, and -- and

1                   -- or tomorrow, whichever might be --

2           CHAIRPERSON:                   Okay.  So let's do this.  We  
3           will at the present time adjourn Appeal  
4           28100.  It will be reconvened either today or  
5           tomorrow morning, depending upon where we are  
6           in the testimony.

7                                   We will then, um, call Appeal  
8           -- just let me find my notes here -- 28122,  
9           and that is for 610 Henderson Drive, Regina,  
10          and for the purposes of the record, um, I'm  
11          Joanne Moser, the Chair for the appeal, and I  
12          have on my right?

13          WALTER ANTONIO:               Walter Antonio.

14          CHAIRPERSON:                   And on my left?

15          LINDA PAIDEL:                  Linda Paidel.

16          CHAIRPERSON:                   And appearing for the  
17                                   Appellant?

18          RYAN SIMPSON:                  Ryan Simpson with Altus Group.

19          ARCHIE FIELDGATE:              Archie Fieldgate with Altus  
20                                   Group.

21          CHAIRPERSON:                   And for the City Assessor?

22          GERRY KRISMER:                 Gerry Krismer.

23          SCOTT MILLER:                 Scott Miller.

24          CHAIRPERSON:                   Sorry.  And Scott Miller?

25                                   I just need a minute to change

1 my pages and make sure that I don't  
2 intermingle my notes.

3 All right, I believe that I'm  
4 organized, and so, um, with Appeal 28122, um,  
5 let's start with testimony or evidentiary  
6 matters with a note to before closing this  
7 appeal ultimately, as well as 28100, talk  
8 about what's being carried forward. So I  
9 don't want to lose that, but I think what I'd  
10 prefer to do is -- is get right into, uh, the  
11 evidence that we're going to hear so that we  
12 can manage our witnesses. All right?

13 RYAN SIMPSON: Thank you, Madam Chair.

14 CHAIRPERSON: Okay. So proceed, Mr. Simpson  
15 and Mr. Fieldgate.

16 RYAN SIMPSON: Moving directly into the size  
17 adjustment issue for large properties I'll  
18 provide a little bit of background and then I  
19 will ask Mr. Volodin to speak.

20 So the City had developed a  
21 cap rate sales array using 136 industrial  
22 sales. The model indicates that at 10,000  
23 square feet up to 50,000 square feet there is  
24 a positive cap rate adjustment per every  
25 1,000 square feet of .044. This results in a

1 max capitalization rate adjustment for size  
2 of 1.76 applied to the base cap rate of  
3 6.862.

4 There is two sales, one  
5 located at 1110 East Pettigrew Avenue and the  
6 other one located at 580 Park Street, and  
7 they have building area sizes of 126,800  
8 square feet and 87,760 square feet  
9 respectively. There are no sales between  
10 50,400 and some square feet and that 87,760  
11 square-foot-sale, so there's a dead zone in  
12 between that area with no sales data.

13 Currently those two larger  
14 sales are applied a rent adjustment, specific  
15 rent adjustment for properties that are  
16 single tenant at 65,000 square feet and  
17 greater. So Altus' position is that we want  
18 to establish whether that 50,000-square-foot  
19 threshold, that cut-off for positive cap rate  
20 adjustment, make sense, if it's correct. And  
21 what we found is based upon the data sequence  
22 of properties beginning at 10,000 square feet  
23 up to the 50,400-square-foot sale we are  
24 showing a trend upward in cap rate.

25 Now, the City has cut off any

1 increased trend at 50,000 square feet or has  
2 recognized it within the cap adjustment of  
3 the .044, uh, cap rate increase, so it's cut  
4 off at 50,000 square feet.

5 Now, because the properties,  
6 both that 87,760 square feet and 126,800  
7 square feet, are valued currently as single  
8 tenant properties greater than 65,000 square  
9 feet at negative 2.53 per square foot rent  
10 adjustment is applied, which has decreased  
11 their net operating income and resulted in  
12 low capitalization rates.

13 Altus, when it looked at these  
14 sales, didn't consider them to be necessarily  
15 comparable in establishing an upward trend  
16 because of the unique rent adjustment that  
17 was being applied to their specific  
18 circumstances, being single tenant and of  
19 over 65,000 square feet. And to look at if  
20 the trend would increase upwards beyond  
21 50,000 square feet, we looked at pulling out  
22 that negative rent adjustment to estimate  
23 what the cap rates would be if those  
24 properties were not single tenant properties  
25 greater than 65,000 square feet, if they were

1 multi-tenanted for example. And that  
2 resulted in the upward trend.

3 Page 14 and 15 show the sales  
4 up to that 50,400-square-foot mark on both,  
5 and based upon the sequence of data between  
6 10 and -- or between 10 and 87,000 square  
7 feet for example, the data shows an upward  
8 trend. Now, what effectively results is a  
9 question of where that cut off should  
10 actually be, if it's at 50,000 square feet or  
11 is there a specific statistical test that can  
12 forecast or project to what point there would  
13 be an upper threshold, a change point.

14 So it was first tested to see  
15 if the data was normally distributed, and  
16 normally distributed data is based on a bell  
17 curve of data, the up and down with the tails  
18 on both sides, to see if the data that was  
19 used by the City of Regina reflected normal  
20 distribution, and it didn't. It is non-  
21 normally distributed.

22 So in paragraph 49 we discuss  
23 the -- or we point to the fact that under  
24 normally distributed data, the empirical rule  
25 can be used, and that's the 68.95 - 99.7

1           percent rule or the three standard deviations  
2           away from the mean. Because the data was not  
3           normally distributed, we can't use the  
4           standard empirical rule. We rely on the  
5           Chebyshev theorem, and Mr. Volodin will  
6           speak, uh, in more depth to that. And the  
7           Chebyshev theorem recognizes or accounts for  
8           the fact that the data is not normally  
9           distributed, that the data is in fact skewed.

10                   Altus, in determining a K  
11           value or the number of distributions  
12           reflecting non-normally distributed data,  
13           picked a 95 percent confidence or confidence  
14           level. And so that can be seen in paragraph  
15           53 on page 17, and I provide the calculation  
16           breakdown, so at 95 percent confidence is  
17           equal to 1 minus 1 over K squared, the  
18           resulting K value is 4.47. So then you take  
19           the mean value, plus your K value, 4.47,  
20           multiply it by your standard deviation, and  
21           that results in an upper threshold of -- in  
22           our 20 day submission we have it listed as  
23           71,258. Now, once we received the Assessor's  
24           10 day submission, we found errors with two  
25           of the sales we used, and in correcting that

1 in our rebuttal it's about 72,000 square  
2 feet, so relatively close but different, and  
3 I'll address that in a little bit.

4 References regarding the types  
5 of statistical tests can be found on page  
6 301, Second Canadian Edition of Statistics  
7 textbook excerpts, and page 302 near the  
8 bottom it discussed the Chebyshev's theorem,  
9 and on page 303 it discusses the empirical  
10 rule for the Board's review.

11 Appendix T, 305, in these we  
12 are trying to establish that the default  
13 alpha value is 5 percent, which corresponds  
14 with a 95 percent confidence, hence why they  
15 use 95 percent in the determination of the K  
16 value.

17 On page 17 in paragraph 51,  
18 uh, the test of normality, the Nicole Gorov  
19 Smirnov test has a significance value of  
20 .000, and the Shapiro-Wilk has a significance  
21 value of .000, which indicates that the data  
22 is not normally distributed, and that can be  
23 referenced further at pages 310 and 311.

24 On page 317 we printed out  
25 some excerpts from IBM's SPSS Helper or



1 Resource documentation, and in that it lists,  
2 or it says, and it's highlighted:

3 If the significance value is less than  
4 the significance level by default to  
5 .05, the test is judged to be  
6 statistically significant.

7 Again, pointing to the default levels, and  
8 again on page 319.

9 Pages 324, 325 and 6 I  
10 provide our statistical calculations in  
11 determining the, uh, normality of the data  
12 set. As you can see on page 325, the  
13 (*inaudible due to loud cough*) there at the  
14 bottom of the page, the data is skewed to the  
15 -- or the data is skewed with, uh, more of  
16 the data points falling at the low end and  
17 trailing off as you get larger and larger.

18 Page 328 is a record of  
19 decisions from the City of Saskatoon. I  
20 believe this was the first time the Mann-  
21 Whitney test was brought, uh -- was bought  
22 into the Board level, and the Saskatoon  
23 Assessor at that time had utilized a 95  
24 percent confidence or a 5 percent alpha as  
25 default in establishing whether, uh, certain

1 variables were statistically significant,  
2 specifically page 345 of our Appendices, the  
3 highlighted section.

4 And then at page 363 is a  
5 submission from SAMA with respect to, uh,  
6 (*inaudible*) appeals. And on page 364 SAMA  
7 has chosen to establish a 95 confidence level  
8 or a 5 percent alpha value as default in its  
9 analysis and statistical testing.

10 I included in our Appendix W,  
11 page 367, the, uh, areas we used to establish  
12 the mean and standard deviation for building  
13 sizes between 10,000 and 50,400. And, uh,  
14 the following page is the resulting  
15 statistical testing, test of normality, and  
16 descriptive tests on page 370.

17 And within our rebuttal  
18 document I had addressed the Assessor's  
19 submission, paragraph 87, where they  
20 indicated we didn't use the correct data set  
21 to get 37 sales instead of 35. Altus revised  
22 its analysis and provides the test similar  
23 found -- similar to the ones found in our 20  
24 day submission regarding the test of  
25 normality and descriptive statistics, and

1           again the data is not normally distributed,  
2           and that's on paragraph 7 -- page 7 of our  
3           rebuttal submission, and running the K value  
4           again, a determination of the upper threshold  
5           of 72,600, and that's at the bottom of page  
6           7.

7                           On page 8 of our rebuttal  
8           submission the Assessor states in his  
9           paragraph 77:

10                           The Appellant attempts to complete  
11                           analysis of the sales. However, the  
12                           Appellant restricted his analysis to  
13                           those greater than 10,000 square feet.  
14                           It is unclear why this was done.

15           Just to provide some clarification, we wanted  
16           to look at the sequence of data that focussed  
17           in on that positive .044 increase to the cap  
18           rate for sales between 10,000 up to 50,000  
19           square feet. We wanted to look at the data  
20           set that were directly affected and would  
21           directly affect that particular rate, and so  
22           that's why we focussed in on that data  
23           sequence, because Altus felt that it was the  
24           relevant data to be reviewing to try and  
25           determine at what point does that cut-off

1 occur, does it cut off at the 50,000 square  
2 feet or based upon the statistical testing of  
3 the non-normally distributed data, and going  
4 out to 95 percent threshold that data would  
5 fall -- or the threshold would fall, pardon  
6 me, at 72,000 square feet roughly.

7 Paragraph 11 showcases the  
8 current array of the sales from zero up to  
9 128,000 square feet, so encompasses all of  
10 the sales. And then paragraph 16 indicates  
11 sales from roughly 10,000 up to about 128,000  
12 square feet, but I included the two larger  
13 sales to showcase, um, what they would be.  
14 And the one particular sale at 1110 East  
15 Pettigrew that, uh -- it was found out after  
16 receiving the Assessor's submission that the  
17 lease leading up to April of 2012 --

18 GERRY KRISMER: I think, Madam Chair, it would  
19 be a great time to just raise as a  
20 preliminary matter that he's venturing into  
21 an area that is not listed in his Notice of  
22 Appeal. In the 5 day rebuttal submission  
23 they've added new ground or a new issue with  
24 one of the sales, that being 1110 East  
25 Pettigrew. The issue being raised is it's

1 not a single tenant property. Nowhere in the  
2 Assessor's submission did he discuss  
3 specifically 1110 East Pettigrew, but now  
4 they're making the allegation that it's a  
5 multi-tenant building.

6 RYAN SIMPSON: Madam Chair, if I can --

7 GERRY KRISMER: -- and --

8 RYAN SIMPSON: -- comment --

9 GERRY KRISMER: -- and if this is allowed to  
10 proceed without an amended Notice, or even if  
11 we amend the Notice, I'll be asking for the  
12 ability to introduce fresh evidence, as I  
13 haven't had a chance to respond to the issue.

14 CHAIRPERSON: Thank you, Mr. Krismer. Uh,  
15 so, Mr. Simpson, are you headed somewhere  
16 where it's not listed in your Notice of  
17 Appeal?

18 RYAN SIMPSON: Madam Chair, the reason for  
19 the mention of this was solely to point to  
20 the continued upward trend as it relates to  
21 the backing out of that negative 2.53  
22 adjustment for the purposes of establishing  
23 whether the trend is increasing or not  
24 increasing.

25 CHAIRPERSON: So is it your intention to put

1 to this Board evidence or argument that deals  
2 with the nature or number of tenancies in  
3 that building?

4 RYAN SIMPSON: Yes, Madam Chair.

5 CHAIRPERSON: And how do you respond to Mr.  
6 Krismer's point that this is not something  
7 that was raised in the Notice of Appeal?

8 RYAN SIMPSON: He's correct, it wasn't  
9 specifically raised other than to point that  
10 there is an upward trend, um, with the data  
11 beyond 50,000 square feet.

12 CHAIRPERSON: And I don't recall seeing  
13 anything in my materials where there was a  
14 request to amend the Notice of Appeal.

15 RYAN SIMPSON: Correct.

16 CHAIRPERSON: Had that request been made?  
17 It had not?

18 RYAN SIMPSON: Correct.

19 CHAIRPERSON: Given that this is not  
20 something that was raised in the Notice of  
21 Appeal and the point where we are in these  
22 proceedings, um, we're not prepared to hear  
23 any evidence with respect to whether or not  
24 110 East Pettigrew is a single tenant  
25 property.

1 RYAN SIMPSON: Fair enough. Thank you, Madam  
2 Chair.

3 GERRY KRISMER: Just a point, it should be  
4 1110, not 110.

5 CHAIRPERSON: Sorry if I misspoke. I have  
6 1110 in my notes.

7 RYAN SIMPSON: So for the purpose of  
8 establishing an upward trend I'll just speak  
9 to the fact that because these larger sales  
10 have a rent adjustment of negative 2.53 put  
11 to them at 65,000 square feet and greater,  
12 what happens is because of this dead zone  
13 from 50,000 to 65, if a property is multi-  
14 tenanted above 50,000 square feet, it just  
15 gets cut off at 50,000, or if it's multi-  
16 tenanted at 80,000 square feet, it gets cut  
17 off at 50,000, and the same can be said with  
18 the single tenant up to 62,000 square feet.  
19 It will have the cut-off of 50,000 applied to  
20 it.

21 And so although the data is  
22 showing an upward trend, based upon the  
23 backing out of this negative adjustment to  
24 make the data comparable for the larger sales  
25 to account for the fact that this dead zone

1 exists, because the trend has continued to  
2 climb and it's only at 87,760 square feet --  
3 or at 65,000 square feet that the negative  
4 rent adjustment is applied, we are seeing  
5 massive drops in the NOI which has resulted  
6 in lower cap rates, but when you back that  
7 out, those cap rates are higher, resulting in  
8 a continued upper trend. And that can be  
9 seen in part in -- just backing out the  
10 negative 2.53 a square foot can be seen in,  
11 uh, the largest sale in paragraph 16. The  
12 second largest sale was included, but that  
13 one is calculated on the -- or with the  
14 negative 2.53 per square foot applied.

15 At this point, Madam Chair,  
16 I'd like to call our expert witness. Mr.  
17 Volodin.

18 GERRY KRISMER: Before we get to that I think  
19 I have the right to cross-examine, um, Mr.  
20 Simpson on the testimony that he's provided  
21 before the next witness steps in.

22 CHAIRPERSON: Yes, you do. So we'll have  
23 Mr. Krismer's questions, anything you may  
24 have in re-direct, and, uh, then we can hear  
25 from your witness.



1 RYAN SIMPSON: Thank you, Madam Chair.

2 **CROSS-EXAMINATION OF RYAN SIMPSON BY MR. KRISMER:**

3 Q Mr. Simpson, you made the statement that at  
4 page 14 that there's evidence of an upward  
5 trend in the capitalization rates from 50,000  
6 to 70,000. Now, I look at that graph and I  
7 see a line drawn from zero square feet to  
8 about 70,000 square feet. If there's no  
9 sales between 50,000 square feet and 70,000  
10 square feet, where do you come up with the  
11 conclusion that the evidence shows that  
12 there's an upward trend in the cap rates  
13 between 50 and 70,000 square feet?

14 A Based upon that particular chart, the data  
15 when trended using a linear line indicates  
16 that it continues to trend upward to 50,000,  
17 and if we extrapolate that line, it extends  
18 upward beyond 50,000.

19 Q So would it be fair, Mr. Simpson, that if I  
20 look at this and assume there was no data  
21 beyond 50,000 square feet at all, that that  
22 line based upon your position should keep  
23 extending upwards 'til you hit the maximum  
24 size in the city at maybe a million square  
25 feet, that that line just keeps going --

1 keeps going up at that same trend, even  
2 though there's no data beyond 50,000 square  
3 feet? Is that what you're suggesting?

4 A Not at all.

5 Q So where would you stop it in that graph?

6 A So under the market valuation standard, um, I  
7 believe the first component is mass  
8 appraisal. Within mass appraisal it  
9 discusses statistical testing --

10 Q Mhmm.

11 A -- which is why we relied upon the Chebyshev  
12 theorem in establishing an upper threshold of  
13 72,000 square feet.

14 Q Yeah, we'll get to that in a minute.

15 A Thank you.

16 Q In looking at that graph though, Mr. Simpson,  
17 and I believe you said there were 35 sales or  
18 37 sales between 10 and 50,000 square feet,  
19 if I draw a horizontal line at 10,000 square  
20 feet, I'm counting 10 sales in there. What  
21 data set did you use for those? It looks  
22 like you're missing about 25 sales.

23 A I believe this data set had removed sales  
24 with conflicting adjustments to try and  
25 establish the impact of just sales that were

1           affected by building size, so in other words  
2           condominiums, light industrial and properties  
3           with a site coverage less than 30 percent.

4           **Q**   Is that the same data set you relied upon  
5           throughout your analysis?

6           **A**   No.

7           **Q**   No. So depending upon the analysis you would  
8           change it at any given time. So I look at  
9           the next page, at page 15, and you use a  
10          different data set. Is that correct?

11          **A**   Yes.

12          **Q**   So later on what data sets did you use in all  
13          your various --

14          **A**   Based upon your 10 day response, I used the  
15          35 sales you recommended.

16          **Q**   In this submission, this is your 20 day  
17          submission, so you wouldn't have even  
18          received our -- our submission yet.

19          **A**   Right.

20          **Q**   So throughout this analysis you've used  
21          different data sets throughout your analysis?

22          **A**   I believe I pointed to the fact that we had  
23          data, uh, particularly two additional sales  
24          that were valued in error, and so that was  
25          rectified in our rebuttal submission.

1 Q So in your rebuttal submission at pages 8 and  
2 9 it appears you're using the entire data  
3 set, but on page 14 of your original  
4 submission you are not?

5 A Correct.

6 Q Now, you make the statement that to make this  
7 data set comparable you eliminated the two  
8 largest sales from your analysis, and just to  
9 be clear, are all your clients' properties  
10 less than 80,000 square feet?

11 A No.

12 Q No. So you eliminated the two sales because  
13 they received this -- this negative  
14 adjustment to the rent, but you're trying to  
15 develop a cap rate to apply to properties  
16 similar in size. So should that then be that  
17 we should remove the negative adjustment to  
18 all properties over 50,000 square feet for  
19 the rent? Is that what you're suggesting?

20 A Do you mean 65,000?

21 Q Sure, over 65,000 square feet.

22 A And I don't believe all our clients are  
23 single tenant, so -- that are of large size  
24 -- so I don't know if that would --

25 Q So I'm asking you of all the large

1 properties, single tenant properties over  
2 65,000 square feet, should the negative rent  
3 adjustment be removed and apply this  
4 different category?

5 A That wasn't a ground in our submission. I  
6 have no comment on it.

7 Q But you're suggesting for the cap rate  
8 purposes that that negative adjustment should  
9 be removed from those sales; is that correct?

10 A For the purpose of testing if it continues to  
11 trend upward to at least 65,000 square feet.

12 Q So is it your suggestion that in order to  
13 test a theory that you don't apply the rent  
14 model the way it was developed, you just  
15 apply it any way you want and develop a cap  
16 rate? Is that what you're suggesting?

17 A No.

18 Q Now, looking at page 16 and you were talking  
19 about the standard deviation and you were  
20 restricting it to the over 10,000 square  
21 feet, and you're developing a point. Did the  
22 Assessor use plus or minus 3 standard  
23 deviations to set the break points of 50,000  
24 square feet?

25 A Um, not that I'm aware of.

1           Q     Right.  And you agree that this adjustment  
2                   for size also applies to under 10,000 square  
3                   feet and over 10,000 square feet?  You'd  
4                   agree with that statement?

5           A     The adjustment is applied in a different  
6                   manner.  It's -- I believe a negative .044 is  
7                   applied to properties below 10,000 square  
8                   feet, whereas a positive .044 is applied to  
9                   properties greater than 10,000 square feet.

10          Q     You'd agree that the adjustment of .044 is  
11                   applied to properties both less than and  
12                   greater than 10,000 square feet in the same  
13                   fashion?  You'd agree with that statement?

14          A     Not in the same fashion, no.

15          Q     So if I take you through the math, and to be  
16                   a mathematician, if I say the math is 10,000  
17                   minus the property size, times .044, divided  
18                   by 1,000, so just follow me on this math,  
19                   10,000, minus the property size, times .044,  
20                   divided by 1,000.  So if the property size is  
21                   5,000 square feet, you'd take -- sorry, it  
22                   should be the other way around, it should be  
23                   property size minus 10,000, sorry, I  
24                   apologize -- in that equation.  Just go  
25                   property size minus 10,000.  So if the

1 property size is 5,000 square feet, go 5,000  
2 minus 10,000, times .044, divided by 1,000.  
3 That would give you a negative adjustment  
4 just by the mathematics.

5 A Yeah, you end up with, I believe, negative  
6 5,000 times by .044, resulting in whatever  
7 adjustment you applied.

8 Q Right. But if it's a 20,000-square-foot  
9 building, it would be 20,000 minus 10,000,  
10 times .044, divided by 1,000; you would agree  
11 with that?

12 A The 10,000 is put in a different place in the  
13 formula, but yes.

14 Q No. No, it's not. Building size, minus  
15 10,000, times .044, divide by 1,000.

16 A Oh yes. Yes.

17 Q So it's the exact same formula for every  
18 building. In some situations if it's less  
19 than 10,000 due to the mathematics, it's a  
20 negative adjustment, but if it's greater than  
21 10,000, it's a positive adjustment. You'd  
22 agree with that?

23 A If the I guess benchmark is considered to be  
24 10,000, then yes.

25 Q That's what the formula on our website

1 states; correct, that the adjustment is zero  
2 at 10,000, but it's negative below 10,000 but  
3 it's the same -- it's the same adjustment?

4 A Yes.

5 Q Yeah. So there is no different formula?

6 A In that scenario I suppose not.

7 Q Now, you're talking about calculating a  
8 confidence interval, and you used that term  
9 quite a bit, a confidence interval.

10 A A confidence level. Um, there might be a --

11 Q Sure, confidence level, confidence interval,  
12 same thing.

13 A I don't necessarily think that's the case. I  
14 believe Mr. Volodin can speak to that more  
15 precisely than I.

16 Q So you're calculating a confidence level, and  
17 is it your suggestion that in a normally  
18 distributed group of properties in the normal  
19 theory is it correct saying that if you have  
20 a normal distribution of data, 68 percent of  
21 the properties will fall within plus or minus  
22 one standard deviation?

23 A Yes.

24 Q 68 percent of the properties, that's not 68  
25 percent confidence level; correct?



1 A Correct.

2 Q And if you have plus or minus 2 standard  
3 deviations, you'd calculate -- you can say  
4 that there's 95 percent of the properties  
5 would fall within plus or minus 2 standard  
6 deviation?

7 A Correct.

8 Q But that's not confidence level; correct?

9 A Two standard deviations using the empirical  
10 rule, that is correct.

11 Q 95 percent of the properties.

12 A Right.

13 Q And if you go plus or minus 3, 99 percent of  
14 the properties would fall within that range?

15 A Correct.

16 Q So all you're doing is establishing how many  
17 properties percentagewise would fall within a  
18 range. Is that correct?

19 A Yes.

20 Q So when we go to the theorem, this theory, in  
21 non-normally distributed data, what you're  
22 trying to figure out is what percentage of  
23 the properties would fall within X number of  
24 standard deviations of the mean; is that  
25 correct?

1 A Yes.

2 Q So at 2 standard deviations you end up with  
3 what number?

4 A I don't know.

5 Q Using the formula that you put forward, would  
6 it be fair to say that at plus or minus 2  
7 standard deviations all you've calculated is  
8 that 75 percent of the properties would fall  
9 between zero and 43,000 square feet?

10 A I don't know.

11 Q You didn't do that math?

12 A Not that math.

13 Q So at plus or minus 4.4 standard deviations,  
14 which is what you would need to get to a 95  
15 percent of the population --

16 A Right.

17 Q -- 95 percent of the sales, not a 95 percent  
18 confidence level, you need plus or minus 4.47  
19 standard deviations to have 95 percent of  
20 your sales which would set a range of zero to  
21 71,000. Is that not what that test is doing?

22 A Yes.

23 Q So all you're saying is that if you want 95  
24 percent of your sales to be within a certain  
25 range, you would have to go out plus or minus

1           4.4 standard deviations. That would give you  
2           95 percent of your sales would range in size  
3           from zero to 71,258 square feet. That's what  
4           you've calculated.

5           A     Based upon the data sequence we tested, it  
6           would be roughly 72,000.

7           Q     Right. That 95 percent of the sales would  
8           fall between zero and 72,000 square feet?  
9           Correct?

10          A     Oh. Yes.

11          Q     Where did you calculate the confidence  
12          interval on that, or confidence level? Where  
13          does that calculate a confidence level of  
14          71,258 square feet?

15          A     I believe we referenced a default 95 percent,  
16          uh, within our materials that were filed.  
17          Um, I could go through every one of them  
18          again.

19          Q     No no, I understand what the 95 and the 5 is.  
20          I'm saying when you calculated your size  
21          range up to 71,258 square feet, were you not  
22          simply calculating where 95 percent of the  
23          sales would fall, not a 95 percent confidence  
24          level?

25          A     I'm having a hard time following.

1           Q    And I appreciate the Board may be having a  
2                    hard time following because these are fairly  
3                    heavy statistics, and this is why we wanted  
4                    our expert around.  Is it fair, Mr. Simpson,  
5                    to say that when you're calculating  
6                    statistics, let's say the assessment to sales  
7                    ratio, and you want to check how well that's  
8                    distributed, you would use a 95 percent  
9                    confidence level or a test with that to  
10                   determine whether or not they're within a  
11                   range?  Say using the Mann-Whitney test.

12           A    For the ASRs or --

13           Q    Sure.

14           A    So with the assessment to sale ratio the goal  
15                   is to get 1, and you run your CODs and not --

16           Q    So basically what it's saying is that if I  
17                   run a test I can be 95 percent confident the  
18                   true median of a set of data would fall  
19                   between X and Y; correct?

20           A    Yes.

21           Q    In this case, though, you're calculating  
22                   where 95 percent of the sales will fall  
23                   within, not a confidence level about the  
24                   appraisal fitness of the property?  Correct?

25           A    Um, sure.

1           Q     So if I turn you to page 17 of your  
2                    submission, at paragraph 53 you state:

3                            The default significant level is 5  
4                            percent, which corresponds to a 95  
5                            percent confidence level.

6                    I don't disagree with that statement.

7           A     Okay.

8           Q            Assessment in Saskatchewan has relied  
9                            upon the 5 percent alpha in the past  
10                           and currently still do.

11                   I don't disagree with that statement.

12          A     Okay.

13          Q            In establishing a 95 percent  
14                           confidence in determining an  
15                           appropriate breakpoint for industrial  
16                           sales the following formula is used.

17                   Now you say we required 95 percent  
18                   confidence, therefore .95. Mr. Simpson, in  
19                   that formula are you not calculating where 95  
20                   percent of the sales will fall not a 95  
21                   percent confidence in them -- or confidence  
22                   level?

23          A     Uh --

24          Q            Does that formula not say that if you want to  
25                           calculate where 95 percent of the sales may

1 fall in a non-normally distributed set of  
2 data, that you would have to extend your  
3 standard deviation plus or minus 4.47 --

4 A Oh. Yeah.

5 Q Yeah. It's not a confidence level test.  
6 Correct?

7 A It's not a confidence interval test.

8 Q Or a confidence level test; correct?

9 A Uh, again, I think --

10 Q No no no no, I'm asking you --

11 A Okay.

12 Q -- are you not trying to solve how many  
13 standard deviations you need to capture 95  
14 percent of the sales?

15 A I'm just having a hard time following your  
16 line of questioning.

17 Q My question is this formula, what you're  
18 trying to solve for K, and K equals the  
19 number of standard deviations plus or minus  
20 from the median, or from the mean, to get to  
21 a certain percentage of the sales; is that  
22 what this formula is doing?

23 A I believe so.

24 Q Right. So if you want to have 95 percent of  
25 your sales, you try and calculate how many

1 standard deviations from the mean that you  
2 would need to capture 95 percent of the  
3 sales; is that correct?

4 A Yes.

5 Q Yes. So it's not a confidence level test?

6 A I wouldn't say that. I don't know.

7 Q Do you know?

8 A I know --

9 Q Keeping in mind your expert will be next.

10 A Yeah. Um, based upon the formula, I spoke  
11 with our expert about utilizing the Chebyshev  
12 theorem at .95 we get 4.47, and when you  
13 apply it to the formula of  $Xy$  plus  $K$  times  
14 standard deviation, you get 72,000.

15 Q Right. So if I wanted to calculate -- and  
16 keeping in mind in a normally distributed set  
17 of data you have 68 percent plus or minus 1,  
18 95 percent of the sales plus or minus 2, 99  
19 percent of the sales plus or minus 3 standard  
20 deviations -- if I wanted to calculate how  
21 many -- what my sales range would need to be  
22 for 99 percent of the sales, would I not just  
23 input .99 into that formula and come up with  
24 maybe it's going to be around 5.5 standard  
25 deviations? That's what you're solving, the

1 standard deviations, and you would have a  
2 different size range than --

3 A I don't know.

4 Q You don't know?

5 A No, I don't.

6 Q No, but if you were to solve it, just in  
7 theory, 'cause you're putting out a theory,  
8 in theory if I want to calculate how many  
9 sales fall -- if I want 50 percent of the  
10 sales, what you're calculating is how many  
11 standard deviations from the mean you would  
12 get to get 50 percent of your sales in that  
13 analysis.

14 A I think I'll let my expert speak to that.

15 Q But you spoke to it. You gave your testimony  
16 as it relates to interpretation of that. I  
17 need your --

18 A And I --

19 Q -- interpretation, Mr. Simpson.

20 A -- provided my answer as best I'm able to  
21 right now, and anything further --

22 Q You don't know.

23 A -- will be addressed by Mr. Volodin.

24 Q So this formula, as you stated, is not  
25 calculating confidence level or a confidence



1 interval, it's simply calculating where --  
2 how many standard deviations you need to get  
3 to 95 percent of the sales falling within a  
4 range?

5 A There's a lot there. Um --

6 ARCHIE FIELDGATE: I think, Madam Chair, probably  
7 the expert is better to answer these  
8 questions. When Mr. Simpson may have done  
9 his submission he may have misunderstand what  
10 our expert said, I don't know that for a  
11 fact, but I think the -- if we have our  
12 expert clarify what Mr. Krismer wants to know  
13 I think that would be appropriate.

14 CHAIRPERSON: I have two observations. One  
15 is that I think that, um, Mr. Simpson may be  
16 at a point where he feels that he has  
17 answered those questions to the best of his  
18 ability. Um, the Assessor may wish to make  
19 comment on the weight to be given to that,  
20 uh, testimony, uh, coming from Mr. Simpson.

21 Um, the other observation is  
22 that I know I understand where Mr. Krismer is  
23 -- where he is pointing out the differences  
24 between this, so I am understanding  
25 distinctly that there is a difference between

1                   the two 95 percents.

2           GERRY KRISMER:           Thank you, Madam Chair.

3           CHAIRPERSON:            Okay. So, um, if we could,  
4                   uh, continue --

5           GERRY KRISMER:           We'll just move on, yeah.

6           CHAIRPERSON:            Thank you.

7           **Q**    And I'm going to end near the end. Mr.  
8                   Simpson, when you had your rebuttal  
9                   submission in and you were trying to make all  
10                  the sales comparable by backing out the  
11                  negative adjustment to the rent, recognizing  
12                  that you have properties that are receive --  
13                  properties part of this appeal that are  
14                  receiving that negative adjustment, did you  
15                  back out all the adjustments within the rent  
16                  model for all the properties, or did you just  
17                  back out the size adjustment?

18          **A**    Oh. Um, in looking at the data as to whether  
19                  or not there was an upward trend I just  
20                  focussed on those two larger sales.

21          **Q**    But you would agree they could be receiving  
22                  an adjustment for age, location, style of  
23                  building, all those other various adjustments  
24                  that are within the rent model?

25          **A**    Right, and so the smaller sales and larger

1 sales were not -- those adjustments weren't  
2 pulled out because they were the same for all  
3 of them keeping them in place. The  
4 difference was for the negative 2.53 for the  
5 large.

6 Q But you didn't pull it out on the second  
7 largest sale? You didn't back out --

8 A No.

9 Q -- that adjustment. I'm looking at your  
10 graph on page 9 of your rebuttal submission.  
11 There are two sales beyond 65,000 square  
12 feet.

13 A I did, it just wasn't included with this  
14 material.

15 Q Another set of analysis?

16 A Yes.

17 GERRY KRISMER: I see. Okay. Those would be  
18 my questions, Madam Chair.

19 **CROSS-EXAMINATION CLOSES.**

20 CHAIRPERSON: Mr. Simpson and Mr. Fieldgate,  
21 is there anything that you have to say in re-  
22 direct?

23 ARCHIE FIELDGATE: No, Madam Chair. Thank you.

24 CHAIRPERSON: All right. So at this point I  
25 think I would, uh, prefer to proceed with

1           your witness. So if you could have your  
2           witness come forward, please.

3                       And, sir, if you could just  
4           remain standing, it's the practice of this  
5           Board to affirm witnesses before they give  
6           testimony. So could you please begin by  
7           stating your name for the record?

8    ANDREI VOLODIN:           My name is Andrei Volodin.

9    CHAIRPERSON:            And can I have you spell your  
10           first name?

11   ANDREI VOLODIN:           Can I give you my card?

12   CHAIRPERSON:            Um, if you could read it off  
13           of your card just because the court reporter  
14           is going to need it for the transcripts.

15   ANDREI VOLODIN:           A-N-D-R-E-I.

16   CHAIRPERSON:            And your last name?

17   ANDREI VOLODIN:           Volodin. V-O-L-O-D-I-N.

18   CHAIRPERSON:            Okay. Remain standing. Do  
19           you affirm that the evidence you are about to  
20           give touching he matters in issue shall be  
21           the truth, the whole truth, and nothing but  
22           the truth?

23   ANDREI VOLODIN:           I confirm.

24   CHAIRPERSON:            Okay, thank you. You may be  
25           seated.

1           **ANDREI VOLODIN, Affirmed**

2           CHAIRPERSON:           Is it your intention to, um,  
3                           examine Mr. Volodin on his credentials? Um,  
4                           has there been a discussion with Mr. Krismer  
5                           about, uh, whether or not there's objection  
6                           to the credentials?

7           RYAN SIMPSON:           Madam Chair, I was about to  
8                           go through his credentials and then I guess  
9                           if Mr. Krismer has an objection to Mr.  
10                          Volodin being an expert in statistics and  
11                          mathematics --

12          CHAIRPERSON:           And so that is the area that  
13                           you are tendering him as an expert is an  
14                           expert in the field of statistics and  
15                           mathematics?

16          RYAN SIMPSON:           Yes, Madam Chair.

17          CHAIRPERSON:           Okay. So we'll hear his  
18                           qualifications. Keep in mind that we do have  
19                           a copy of his resumé in your materials.

20          GERRY KRISMER:           I can -- we can probably avoid  
21                           that, Madam Chair. I don't -- I don't take  
22                           any issue with his qualifications. I think  
23                           they're well laid out. We don't need to go  
24                           over that.

25                                   Um, I do, and I am concerned

1 as to the relevancy of the testimony as an  
2 expert only because we haven't set the  
3 foundation as for the need, and I understand  
4 statistics are tough and the Board may need  
5 the interpretation, that's fair ball, but I  
6 want to know the relevancy as it relates to  
7 an assessment appeal.

8 CHAIRPERSON: Okay. So let's start first  
9 with, um, there is no objection to Mr.  
10 Volodin's qualifications, and in that respect  
11 the Board will hear opinion evidence from him  
12 in the field of statistics and mathematics.

13 With respect to the question  
14 of relevance, um, you know, broadly speaking  
15 I think we've been hearing some dialogue  
16 concerning statistics. We shall see where  
17 the testimony goes, and, um, it may be that  
18 it's singular, insular and directed to some  
19 points that, uh, the Appellant was putting  
20 forward, um, but again, um, you know, let's  
21 -- let's hear what Mr. Volodin has to say.  
22 So, Mr. Simpson, if you could proceed.

23 RYAN SIMPSON: Thank you, Madam Chair.

24 Madam Chair, if I could get  
25 the Board to turn to our page 7, paragraph 7

1 of our rebuttal submission.

2 **EXAMINATION-IN-CHIEF BY MR. SIMPSON:**

3 Q Mr. Volodin, early last week did you review  
4 the revised data points, the 35 data points,  
5 um, that were presented to you based upon the  
6 City of Regina's 10 day submission?

7 A Yes, you presented it to me.

8 Q Yes. Have you reviewed the sales data the  
9 Appellant has used in both of its  
10 submissions, rebuttal and, uh, 20 day  
11 submission?

12 A Yes. That was initial --

13 Q In your opinion is what Altus did a valid  
14 test in determining a threshold for a  
15 sequence of data?

16 A The result is completely correct. There was  
17 slight -- a little bit problem with the  
18 terminology, and if you would like I can  
19 speak about terminology, but the procedure is  
20 correct.

21 Q Yes, please.

22 A So then two things and what exactly was  
23 mentioned, that what has been done is that  
24 it's 85 percent of data points are inside of  
25 this interval. This is exactly what we need.

1 We do not need confidence interval because  
2 confidence interval is procedure for  
3 estimation of something. It's interval  
4 estimation. So for example we want to have  
5 confidence interval for mean, for standard  
6 deviation, for Y, whatever you want. It's  
7 not our purpose to estimate something  
8 because we want to find what will be this  
9 threshold upper bound breakpoint, change  
10 point on the lot for this thing. So we want  
11 95 percent of our data points to be inside  
12 this interval, and we are showing you this.  
13 So I'm really sorry maybe it's my fault, it's  
14 not confidence, it's not confidence interval  
15 once again because these two notions are so  
16 related to each other they are linked to each  
17 other, yeah, so it is how we perceive this  
18 confidence interval we are using such theory,  
19 but it's not what we need. And Chebyshev's  
20 theorem it states it exactly like I suggest.

21 Q So could you provide the Board with a little  
22 bit of background on Chebyshev theorem?

23 A Chebyshev's theorem it's such fundamental  
24 result, it's statistics or probability theory  
25 of what you would like to say is here. Both



1 of them, yeah, use it, yeah. That apply to  
2 any data set. So empirical rule can be  
3 applied only to normally distributed data,  
4 the bell shape. Chebyshev's theorem is any  
5 data, and as it's already mentioned that our  
6 data is strictly abnormal, yeah, strictly  
7 abnormal, yeah, and because of that you  
8 cannot apply empirical rule, so they have to  
9 apply another technique, which is Chebyshev's  
10 theorem.

11 Q Is the size change point of 72,000 square  
12 feet, in your opinion, statistically  
13 justified and reasonable based on the data  
14 sequence that was tested?

15 A Yes, and I even do not understand how can we  
16 argue with this. So if you argue with this  
17 statement then you say that Chebyshev's  
18 theorem was wrong? Ahh, but it's proved.  
19 It's mathematical result. How can you be  
20 against it, yeah.

21 Q Are there any other tests you would have done  
22 to ascertain a change point of the sales  
23 data?

24 A No. If I would have more data, maybe I would  
25 try to feed distribution or something, but I

1 don't see so far. I think is the only one  
2 what can be applied.

3 Q Given the data sequence where there is a sale  
4 property at roughly 50,400 square feet and  
5 the next data point is at 87,650 square feet,  
6 from a statistical distribution standpoint  
7 would you develop a change point or a  
8 threshold at the low end of 50,000, or would  
9 you try to find something in the middle?

10 A I would not take low point because why? Then  
11 why not to take highest point? There is  
12 really no reason. Yes, it should be  
13 something between this lowest and the  
14 largest. And that was our starting point,  
15 that you cannot be the smallest one.

16 Q And so based upon Chebyshev theorem, which is  
17 a standard statistical test; is that correct?

18 A Fundamental.

19 Q Fundamental.

20 A Yes.

21 Q Okay. In an extrapolation situation or  
22 scenario, it is therefore reasonable to use  
23 that test to look for a threshold or a change  
24 point?

25 A Yes.

1           Q     Okay.  Have you had the opportunity to review  
2                   the City Assessor's submission of statistical  
3                   arguments?

4           A     I do think that they were statistical.  
5                   Arguments was in such a way that we do not  
6                   use Chebyshev and I quoted you, but if it is  
7                   true why don't they use it?  And in other  
8                   words that you should use 50 points -- 50  
9                   breakpoint just because we can see it by  
10                  graph, but then they can say that I should  
11                  use 87,000 as change point because I also see  
12                  it by graph.

13         RYAN SIMPSON:            Thank you very much, Mr.  
14                                    Volodin.

15         ANDREI VOLODIN:          Thank you.

16         **EXAMINATION-IN-CHIEF CLOSES.**

17         CHAIRPERSON:            Now, Mr. Volodin, Mr. Krismer  
18                                    may have some questions for you.

19         GERRY KRISMER:          I do, Madam Chair.

20         **CROSS-EXAMINATION BY MR. KRISMER:**

21           Q     Mr. Volodin, if I could get you to turn to  
22                   page 7 --

23           A     Mhmm.

24           Q     -- of the Appellant's submission --

25           A     Yes.

1           Q    -- which corresponds with page 17 of the  
2                   original submission --

3           CHAIRPERSON:                Sorry, are we on the rebuttal  
4                   submission page 7?

5           GERRY KRISMER:               Yeah, rebuttal submission page  
6                   7 or original submission page 17.

7           CHAIRPERSON:                Okay.

8           GERRY KRISMER:               The same.

9           Q    Based upon your testimony here, you make the  
10                   statement: "In applying the 95 percent  
11                   default confidence..." Do you agree that  
12                   that's what that's doing?

13          A    No.

14          Q    No.

15          A    95 percents of data points.

16          Q    95 percent of the data --

17          A    Yes.

18          Q    -- points? So if you were trying to  
19                   determine --

20          A    And this is exactly what we need.

21          Q    -- one range of data --

22          A    Yes.

23          Q    If you want to find out 95 percent of the  
24                   data points --

25          A    Yes.

1 Q -- that's what you're calculating, you would  
2 need plus or minus 4.4 standard deviations  
3 from the mean; correct?

4 A Correct. And that you'll not be confident  
5 because there is nothing testing right here.

6 Q And --

7 A You need 95 percents of data points.

8 Q Yes.

9 A Yeah.

10 Q So if I understand your testimony, and you  
11 were talking about the 85 percent, and that  
12 would be the plus or minus 2 standard  
13 deviations from the mean?

14 A Why 2? If I want 95?

15 Q No no, you were mentioning 85 percent. You  
16 had mentioned that --

17 A With 2 you'll be 75 percent.

18 Q Sorry?

19 A 2 you'll be 75.

20 Q 2 is 75 percent.

21 A Yes.

22 Q 3 would get you 88 percent?

23 A 80. It's one minus.

24 Q Yeah.

25 A One over 90.

1 Q And if I understand your testimony correctly,  
2 that that wouldn't be enough data to do an  
3 analysis on?

4 A Yeah, we use statistics 19 out of 20, so --

5 Q Right.

6 A -- magnify it --

7 Q So -- so what you do then is if your normal  
8 plus or minus standard deviations don't get  
9 you enough of the sample to analyze --

10 A Yes.

11 Q -- and you want to expand that sample to  
12 analyze more data, and if you want to get 95  
13 percent to satisfy your --

14 A Exactly.

15 Q -- your desire to have 95 percent --

16 A Yes.

17 Q -- of the samples in your data --

18 A Yes.

19 Q -- that you would have to use this theorem to  
20 calculate out how far do I go?

21 A Exactly. Right.

22 Q So in this case you calculated that you would  
23 have to go out 4.47 standard deviations --

24 A Yes.

25 Q -- to get 95 percent of the sampling included

1 in it; right?

2 A I think you are telling me that what about  
3 left point. That was not my question. My  
4 question was about right point.

5 Q Yeah. I mean, left point is zero in this  
6 case because we're analyzing size.

7 A Yeah.

8 Q It's zero right away.

9 A Oh. Yeah.

10 Q Well, obviously --

11 A It's about 10,000.

12 Q Yeah.

13 A Mhmm.

14 Q But you get out to saying if I'm going to do  
15 an analysis on a set of data and I want 95  
16 percent of my data elements in that analysis,  
17 how far do I have to expand my upper  
18 threshold --

19 A Yes.

20 Q -- to get 95 percent of the sales.

21 A Yes.

22 Q And that's what you've calculated here?

23 A Completely correct.

24 Q That in order to capture 95 percent of the  
25 sales --

1 A Yes.

2 Q -- you have to get out to 72,000 square feet.

3 A Yes.

4 Q And then from that you would do your  
5 analysis, whatever analysis you were doing?

6 A Below. Mhmm.

7 Q Yeah. Just everything below.

8 A Yes.

9 Q But that wouldn't include anything above in  
10 that analysis below?

11 A No. They're both completely different, yeah.

12 Q Right. So in this case whether you're at  
13 50,000 square feet or 50,400, and you do this  
14 theory --

15 A Mhmm.

16 Q -- calculate it out, you come out to 72,000  
17 square feet, but you've added no more sales  
18 into the analysis 'cause there are no sales.

19 A Yeah.

20 GERRY KRISMER: Right. Those would be all my  
21 questions, Madam Chair.

22 **CROSS-EXAMINATION CLOSES.**

23 CHAIRPERSON: The Board doesn't have any  
24 questions for the witness. Mr. Simpson or  
25 Mr. Fieldgate, is there anything that you



1                   wish to ask him in re-direct?

2       RYAN SIMPSON:               No, Madam Chair.

3       CHAIRPERSON:               Mr. Volodin, thank you very  
4                   much for your testimony.

5       ANDRIE VOLODIN:            Thank you.

6       CHAIRPERSON:               You're free to depart, or if  
7                   you wish to stay you're also welcome to stay.

8       ANDREI VOLODIN:            I'll stay.

9       CHAIRPERSON:               Now, we have not taken a  
10                   breather yet this afternoon, and I'm looking  
11                   at our time and depending upon which clock  
12                   you're looking at it's around 20 to 3. Um,  
13                   would you prefer to keep going? I'm just  
14                   trying to keep a logical flow here. Do we  
15                   want to wait to hear from your expert at this  
16                   point or -- I'm in your hands.

17       GERRY KRISMER:            I believe it's important,  
18                   Madam Chair, to get on the record our  
19                   testimony from our witness, absolutely, and  
20                   again, he's not available 'til 3:30. He's  
21                   actually down in Phoenix, just to make sure  
22                   we're aware of where he is. He lives there,  
23                   but -- he's not holidaying. Um, so he's not  
24                   available 'til 3:30 our time.

25                                    Um, so what I -- what I would

1 propose anyways, Madam Chair, is that again  
2 Mr. Miller's not here tomorrow either and  
3 this is the subject matter that I wanted Mr.  
4 Miller to speak to as well. So if we took a  
5 ten-minute or 15-minute break, whatever the  
6 Board chooses, come back, deal with Mr.  
7 Miller's testimony relating to the matter,  
8 'cause I think that's the flow we were going  
9 to now follow, and then if that -- and I  
10 don't think that will take us 'til 3:30  
11 either, so we might have another break, uh,  
12 until we can call our witness down -- from  
13 Phoenix.

14 CHAIRPERSON: Okay. So, Mr. Simpson and Mr.  
15 Fieldgate, was that the entirety of the  
16 evidence proper that you were putting in on  
17 this issue?

18 RYAN SIMPSON: Just one moment, Madam Chair.  
19 Madam Chair, I believe that is  
20 it for the Appellant's arguments.

21 CHAIRPERSON: Okay. I just want to make  
22 sure that we don't miss a piece of the  
23 evidence.

24 So what I would propose that  
25 we do then is we'll take a bit of a breather

1           because we've been listening to some math and  
2           we're going to listen to some more math and  
3           more statistics and I think that will help me  
4           to clear my brain. So we will break until --  
5           my clock here says 2:42, so plus 15 is 2:50,  
6           so that's pretty much getting us close to 3  
7           o'clock, so let's come back at 3.

8                         Um, we will begin with Mr.  
9           Miller, and then if we need to, uh, interrupt  
10          his testimony to hear from your expert, Mr.  
11          Krismer, we'll do that. That will also give  
12          me an opportunity to find out how we  
13          facilitate a telephone -- person speaking by  
14          telephone in this room. Um, I'm not privy to  
15          the technologies in this facility and so we  
16          can contact our assistant, or perhaps, Mr.  
17          Krismer, you could make the arrangements to  
18          have a telephone that has speaker capacity  
19          available where we can all hear and the court  
20          reporter will be able to pick it up as well.

21         CHAIRPERSON:                 If -- if we want to in the  
22   sense just go off the record and we can test  
23   the technology. I've got it in front of me,  
24   so I believe it will work just fine in that  
25   the speaker should be able to pick up the --

1 the question -- or the discussion from the  
2 witness. I may have to just relay the  
3 questions if there questions to him, but he  
4 may be able to pick that up as well. If we  
5 just -- all we need to do is have somebody  
6 phone me and I could test it and --

7 CHAIRPERSON: All right, so let's do that.  
8 So for the purposes of the record we are  
9 adjourned until 3 o'clock.

10 *(Recessed at 2:44 p.m.)*

11 *(Reconvened at 3:02 p.m.)*

12 CHAIRPERSON: All right, so I think we're  
13 ready to continue, and so are continuing on,  
14 and this is Appeal 2017-28122 that we're  
15 continuing with, and, um, we're going to now  
16 hear, Mr. Krismer, from your witness first or  
17 from you?

18 GERRY KRISMER: From Mr. Miller first. So I'd  
19 just like to qualify Mr. Miller as an expert  
20 as well in assessment and assessment  
21 statistics to speak to this theory. Mr.  
22 Miller's appeared before the Board multiple  
23 times and has been accepted as an expert  
24 multiple times in this exact field, and  
25 again, as we talked about before, it's math

1 and statistics which may not be everybody's  
2 favourite subject, so there may be questions  
3 of interpretation or opinion evidence given  
4 as relates to this.

5 CHAIRPERSON: Okay. So before -- and I --  
6 before Mr. Miller does give any testimony, I  
7 will have him take an affirmation, um, but  
8 you're putting him forward as an expert in,  
9 sorry, what was it, assessment and  
10 statistics?

11 GERRY KRISMER: Assessment and assessment  
12 statistics.

13 CHAIRPERSON: Assessment and assessment  
14 statistics. And, Mr. Simpson, um, will there  
15 be the need to hear his qualifications and  
16 have him qualified or will there be a consent  
17 to his being qualified as an expert?

18 ARCHIE FIELDGATE: I assume, Madam Chair, that  
19 Mr. Miller worked on the model that we're  
20 going today, the industrial model?

21 CHAIRPERSON: I don't know. I haven't heard  
22 that yet.

23 ARCHIE FIELDGATE: Mr. Miller, were in involved  
24 in --

25 CHAIRPERSON: Okay. Well, before you go

1           there, though, what I want to know is are we  
2           going to have Mr. Krismer lead us through Mr.  
3           Miller's qualifications so that he can give  
4           us opinion evidence on assessment and  
5           assessment statistics, or -- and would you  
6           like to cross-examine him on his  
7           qualifications?

8       ARCHIE FIELDGATE:           The short answer is no. I  
9           don't dispute -- he's certainly an expert and  
10          I have a lot of respect for Mr. Miller. He  
11          -- he's very smart at what he does --

12       CHAIRPERSON:                Okay.

13       ARCHIE FIELDGATE:           -- and very good. I guess the  
14          point -- problem I had, and maybe we can't  
15          avoid this because in the assessment field --  
16          I have a problem with like a conflict of even  
17          someone declared an expert on work they've  
18          done and then you question them on their own  
19          workings, certified as an expert, but --

20       CHAIRPERSON:                Okay.

21       ARCHIE FIELDGATE:           -- but I do not object to him  
22          being called an expert, by no means.

23       CHAIRPERSON:                Okay. So let's -- let's start  
24          then with the Appellant admit that there is  
25          consent to him being qualified by the Board

1 as an expert in assessment and assessment  
2 statistics. The questions or issues that you  
3 may have with respect to perception of  
4 conflict or any items of that respect can  
5 certainly come out in your cross-examination  
6 of him after he gives his testimony, okay?

7 ARCHIE FIELDGATE: Thank you very much, Madam  
8 Chair.

9 CHAIRPERSON: All right. So, um, Mr.  
10 Miller, if you could please stand. Could you  
11 state your name for the record?

12 SCOTT MILLER: Scott Miller.

13 CHAIRPERSON: And could you spell your first  
14 name?

15 SCOTT MILLER: S-C-O-T-T.

16 CHAIRPERSON: And could you spell your last  
17 name?

18 SCOTT MILLER: M-I-L-L-E-R.

19 CHAIRPERSON: Mr. Miller, do you affirm that  
20 the testimony you are about to give touching  
21 the matters in issue shall be the truth, the  
22 whole truth, and nothing but the truth?

23 SCOTT MILLER: I do.

24 CHAIRPERSON: Thank you. You may be seated.

25 **SCOTT MILLER, Affirmed**

1 CHAIRPERSON: And, Mr. Krismer, please  
2 proceed.

3 GERRY KRISMER: Thank you, Madam Chair.

4 **EXAMINATION-IN-CHIEF BY MR. KRISMER:**

5 Q Mr. Miller, just to set the record straight,  
6 um, you did not complete the analysis, uh,  
7 for the model, uh, as relates to the  
8 industrial rent model or the industrial cap  
9 rate model?

10 A That's correct.

11 Q And today what you're speaking to is the  
12 interpretation of the statistics as relates  
13 to the Chebyshev theory and the application  
14 of that?

15 A Yes.

16 Q So we heard a minute ago, and I think it  
17 resolves the majority of the questions that  
18 -- that -- that we're about to go down, but,  
19 uh, the theorem that was being used, you'd  
20 agree, doesn't set or doesn't have anything  
21 to do with confidence levels or confidence  
22 intervals?

23 A That's correct.

24 Q And what we heard was this theorem is a test  
25 to identify the, uh, where 95 percent of the



1 sales would fall plus or minus. I mean, that  
2 -- that was the testimony. But can you  
3 expand on that just a bit more?

4 A Yeah, my -- my understanding is that given  
5 the amount of sales that we had, um, what  
6 this theorem is saying is that if we want to  
7 predict where 95 percent of the population of  
8 the industrial properties in Regina, the  
9 building sizes of industrial properties in  
10 Regina would fall, these would be the  
11 thresholds based on this analysis, and if you  
12 wanted 95 percent of the population to fall  
13 within these thresholds, you'd have to go out  
14 4.47 standard deviations, uh, to achieve  
15 that, um, which is a lot further out than  
16 you've have to go if -- if the data was  
17 normally distributed.

18 Q So in the case at hand effectively what this  
19 theorem is saying is that 95 percent of the  
20 industrial properties that the building sizes  
21 would fall between zero square feet and  
22 roughly 72,000 square feet; is that correct?

23 A That's correct.

24 Q But it doesn't set the breakpoint?

25 A No, the term breakpoint, I don't know -- I

1 mean, it's -- it's giving you what those  
2 limits are, what you're predicting, you know  
3 from zero -- it actually goes into the  
4 negative, but you can't have a negative  
5 building size obviously, um, so from zero to  
6 72,000 feet all it simply states is that  
7 we're predicting that 95 percent of the  
8 industrial properties in Regina that their  
9 building sizes would fit within those ranges.  
10 It has nothing to do with cap rates. All  
11 this analysis that was performed using this  
12 theorem was just done on building sizes  
13 period. So there's no -- no relevance, that  
14 I can see, to any cap rate analysis. It's  
15 not done on cap rates. This analysis was  
16 only done on building sizes.

17 Q So when you get to analyzing cap rates or  
18 capitalization rates, or for that matter rent  
19 rates or -- or -- or any type of a rate, you  
20 wouldn't use this theorem to say here's the  
21 breakpoints, you would first look at the data  
22 and from a visual standpoint determine what  
23 the data is telling you first?

24 A That's correct.

25 GERRY KRISMER: Those would be all my

1                   questions, Madam Chair.

2                   **EXAMINATION-IN-CHIEF CLOSSES.**

3                   CHAIRPERSON:                Mr. Simpson and Mr. Fieldgate,  
4                                    any questions?

5                   RYAN SIMPSON:                I have just one question,  
6                                    Madam Chair.

7                   **CROSS-EXAMINATION BY MR. SIMPSON:**

8                   Q        Mr. Miller, thank you for coming today. The  
9                                    sales array is a sample used to determine the  
10                                  rate to apply to the industrial population  
11                                  within the city; is that right?

12                  A        Just repeat that question.

13                  Q        Sorry, I'll try and be clear.

14                  A        Yeah.

15                  Q        I might not have said it in a clear manner.  
16                                  Um, the -- maybe I'll back up a bit. The  
17                                  model is used to determine the assessments of  
18                                  industrial properties within the city of  
19                                  Regina?

20                  A        That's correct.

21                  Q        Okay. Um, the model data is a snapshot or a  
22                                  sample of what you would typically find in  
23                                  the marketplace?

24                  A        I mean, it's a sample of -- of sales coming  
25                                  from industrial properties, I'm not exactly

1           sure what the number is, either 36 or 32  
2           sales, um, and we're using that data to  
3           predict values for the entire population of  
4           industrial properties in Regina.

5           RYAN SIMPSON:           Thank you very much.

6           **CROSS-EXAMINATION CLOSES .**

7           CHAIRPERSON:           The Board has no questions for  
8           Mr. Miller. Mr. Krismer, I don't know if you  
9           have anything in re-direct arising from Mr.  
10          Simpson's questions?

11          GERRY KRISMER:           Just a clarification on it, if  
12          I could.

13          **RE-EXAMINATION BY MR. KRISMER:**

14           Q    I think the question, Mr. Miller, was the  
15           model or the data is a sample of the sales  
16           that is typical of the population. To be  
17           clear, you can't make a comment whether or  
18           not it's typical of the population, that the  
19           sales are the sales, and it comes from the  
20           population.

21           A    Yeah, that's correct.

22          GERRY KRISMER:           That's the only question we  
23          have.

24          **RE-EXAMINATION CLOSES .**

25          CHAIRPERSON:           Thank you. So, Mr. Miller,

1           you're excused from your testimony and you're  
2           welcome to stay or you're free to leave.

3                       So where we are now is, uh,  
4           approximately quarter after 3. Is there  
5           something that we can do in the next 15  
6           minutes to use time, or shall we wait to hear  
7           from your expert, Mr. Krismer?

8           GERRY KRISMER:           I could attempt to give him a  
9           call and see if he's back in the office now,  
10          uh, and if he is we can move forward. Um, if  
11          he's not, uh, I guess we'd have to -- to  
12          wait. I don't think there's anything further  
13          to go on.

14                       We could resolve, um, one  
15          issue up front, Madam Chair, and -- and I do  
16          have an email from -- from our witness this  
17          morning that I'll be asking him to speak to  
18          and whether or not I could distribute that  
19          now or get over that hurdle if the Appellants  
20          feel that it can't be introduced, whatever  
21          the case may be, if that's appropriate.

22          CHAIRPERSON:           Well, why don't we talk about  
23          that, and that might take us to close to  
24          3:30. So this would be the email that was  
25          provided to the Appellant this morning. Of

1 course the Board has not seen it, so before  
2 it comes to the Board, is there any objection  
3 that is going to be made to the Board  
4 receiving this information?

5 ARCHIE FIELDGATE: No, we have no objection to  
6 the Board receiving the email.

7 CHAIRPERSON: So why don't we do that. Um,  
8 Mr. Krismer, if you could make sure that of  
9 course Mr. Simpson and Mr. Fieldgate have  
10 exactly what it is that you'll be providing  
11 to us, and if you happen to have three or  
12 perhaps four copies for us, we can include  
13 one in the official record and then each of  
14 us will have one.

15 And so the document will be  
16 marked as Exhibit R-1, and it is a three-page  
17 email, and, uh, it is dated from Robert --  
18 and I will spell his last name -- G-L-O-U-D-  
19 E-M-A-N-S -- dated May 14, 2017, sent to  
20 Scott Miller and forwarded to Mr. Krismer, it  
21 looks like printed from his email.

22 **EXHIBIT R-1:**

23 EMAIL DATED MAY 14, 2017, FROM ROBERT  
24 GLOUDEMANS TO SCOTT MILLER.

25 CHAIRPERSON: And so I'm going to be of

1 course assuming that your witness is going to  
2 talk about the contents of this email, um,  
3 and also just simply because we do not have a  
4 resumé from him in front of us that we will  
5 also hear some information unless you have  
6 his resumé and qualifications available.

7 And so I have in front of me a  
8 one-page document which, um, absent any  
9 objection from you, Mr. Simpson or Mr.  
10 Fieldgate, would have a summary of Mr. -- I'm  
11 going to try to say his name -- Gloudemans?

12 GERRY KRISMER: Gloudemans.

13 CHAIRPERSON: -- Gloudemans' qualifications.

14 Um, and we would more call it his -- an  
15 abbreviated curriculum vitae perhaps or  
16 resumé. We would mark this as Exhibit R-2,  
17 unless you have any objection that we need to  
18 hear argument about.

19 ARCHIE FIELDGATE: No, Madam Chair. He's well-  
20 respected within the IAAO.

21 CHAIRPERSON: Okay. So that document will  
22 be marked as Exhibit R-2 as the witness'  
23 curriculum vitae. And just for the purposes  
24 of the record the date on the bottom of the  
25 page is May 15, 2017.

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**EXHIBIT R-2:**

CURRICULUM VITAE OF ROBERT GLOUDEMANS  
DATED MAY 15, 2017.

CHAIRPERSON:                   And perhaps one more question that we can deal with before he takes the -- figuratively takes the stand because he'll be elsewhere, not in the room, um, is there going to be any objection to him providing opinion evidence and expert evidence to the Board and also in what area specifically is he being tendered as an expert? So first tell me -- tell me his area of expertise, Mr. Krismer.

GERRY KRISMER:               His area of expertise, as set out in his CV, is in mass appraisal as a whole, um, ratio studies, uh, model building, and statistics relating to assessment matters. And to put some scope around as the study's co-authored, many of the references that you would find in say the Appellant's submission, any textbook from the IAAO as he's put forward, those are the textbooks that are set out for -- that Mr. Gloudemans' authored, as well as the ratio studies that the Appellant is relying upon those ratio



1 studies were also, um -- or ratio standards  
2 -- were, uh, developed by or written by  
3 Gloudemans and, uh, so it comes down to a  
4 whole -- I don't know if you want to say it  
5 -- but he's probably the -- the -- he's the  
6 whole ball of wax, uh, be it from valuation,  
7 model building, model collection, sales  
8 analysis, ratio analysis, statistical  
9 analysis and the like. This individual has  
10 taught across the world and -- and -- and is  
11 a tough individual to -- to get down, and, as  
12 you can see, um, just again from his CV,  
13 involved in Alberta, Arizona, Colorado,  
14 District of Columbia, Florida, Iceland,  
15 Manitoba, Montana, Northern Ireland, Ontario,  
16 Tennessee, Saskatchewan, and Washington.  
17 That's just a sampling of -- of his level of  
18 expertise.

19 CHAIRPERSON: So if -- if I were going to  
20 asking Mr. Simpson or Mr. Fieldgate if the  
21 Board were to hear your application to have  
22 him accepted as an expert, and I'm reading  
23 from the last line of his paragraph here, an  
24 expert in mass appraisal, model building,  
25 ratio studies, computer-assisted appraisal

1           and related -- well, I guess that other part  
2           doesn't apply. Mass appraisal, model  
3           building, ratio studies and computer-assisted  
4           appraisal, is that his area of expertise?

5           GERRY KRISMER:           That is his area of expertise.

6           CHAIRPERSON:           So Mr. Simpson and Mr.  
7           Fieldgate, the Assessor is proposing Mr.  
8           Gloudemans, once we have him on the line, as  
9           an expert qualified to give opinion evidence  
10          on mass appraisal, model building, ratio  
11          studies and computer-assisted appraisal.  
12          Will there be any objection to that  
13          qualification?

14          ARCHIE FIELDGATE:       Not at all.

15          CHAIRPERSON:           Okay. All right. Well, I  
16          think we have about ten minutes or so before  
17          he is available, so why don't we break until  
18          3:30. Hopefully at that point you can have  
19          him on the telephone and ready to testify and  
20          have tested the sound systems perhaps, and so  
21          we'll just take a very brief break and come  
22          back at 3:30.

23          RYAN SIMPSON:           Thank you, Madam Chair.

24          *(Off Record Momentarily)*

25          CHAIRPERSON:           All right, so we'll reconvene

1           now from our -- our break in Appeal No.  
2           28122, um, and it is our practice to have our  
3           witnesses affirmed, so if you could, sir,  
4           please state your name for the record?

5           ROBERT GLOUDEMANS:        It's Robert Gloudemans.

6           CHAIRPERSON:            And can you spell your first  
7           name?

8           ROBERT GLOUDEMANS:        Robert.  R-O-B-E-R-T.

9           CHAIRPERSON:            And could you spell your last  
10          name?

11          ROBERT GLOUDEMANS:        Yes.  G-L-O-U-D-E-M-A-N-S.

12          CHAIRPERSON:            Thank you.  And, sir, do you  
13          affirm that the evidence you are about to  
14          give touching the matters in issue shall be  
15          the truth, the whole truth, and nothing but  
16          the truth?

17          ROBERT GLOUDEMANS:        Yes, I do.

18          **ROBERT GLOUDEMANS, Affirmed**

19          CHAIRPERSON:            All right, thank you.  So, Mr.  
20          Krismer, we will have you start with  
21          questions for your witness.

22          **EXAMINATION-IN-CHIEF BY MR. KRISMER:**

23           **Q**    Bob -- and I refer to you as Bob -- just so  
24           I'm clear, uh, Bob, when we look at the IAAO  
25           textbooks, you're --- you're the one that's

1 mentioned many times in those textbooks as  
2 the author or co-author. Make sure I'm  
3 speaking to the right person.

4 A Yes, that's correct.

5 Q Okay, Bob. Scott Miller had sent you an  
6 email, uh, a day or so ago and you responded,  
7 uh, yesterday sometime in regards -- or this  
8 morning -- no, yesterday sometime -- um, I  
9 guess, yeah, yesterday -- and in there you  
10 refer to a number of things, and it's dealing  
11 with the Chebyshev's theorem and how it  
12 applies. Now, I just want to go over that  
13 email if I could, Bob. In your first  
14 statement, I just want to correct a few  
15 things just to make sure we're on the same  
16 page.

17 A Mhmm.

18 Q In your second paragraph you were talking  
19 about 75 percent of the data would lie within  
20 1 standard deviation. I assume that really  
21 should be 2 standard deviation, is that  
22 right, Bob?

23 A No, I wouldn't say that. 1 standard  
24 deviation is at -- the Chebyshev's theorem,  
25 uh, stands in contrast to the, uh, the normal

1 distribution theory, so if you have a normal  
2 distribution, which we usually don't, uh,  
3 with assessments, and 67 percent is within 1  
4 standard deviation and 95 percent within 2  
5 standard deviation, well, if the data is more  
6 skewed or spread out, uh, then that's no  
7 longer the case. And what Chebyshev's  
8 theorem is saying is, uh, no matter what the  
9 distribution of the data pretty much, you  
10 have got a rectangular distribution, so it's  
11 not, uh, clustered in the middle at all.  
12 That's still -- 75 percent would be within 1  
13 standard deviation if 89 percent was the new  
14 standard deviation. So it's -- it's a much  
15 more lax standard than the normal  
16 distribution, but it's safely -- but it's  
17 more of a bell-shaped curve and offers a  
18 greater percentage than by -- with 1 standard  
19 deviation -- than when the data is more  
20 spread out.

21 Q Right.

22 A Does that make sense?

23 Q Yeah, that makes sense to me, Bob. Now,  
24 Scott had sent down the -- the Appellant's  
25 submission to you to review, and you came

1 back in here in your email and you state:

2 I cannot find the presumed reference  
3 in the IAAO's documents.

4 Can you expand on that just a little bit?

5 A Mhmm. Yeah. I remember working on a third  
6 mass appraisal textbook when I was with IAAO.  
7 Um, that one was published way back in 1978,  
8 and we had some Chebyshev's theorem in there,  
9 and, uh, it explained it just like I just  
10 did, and it was in the context of ratio study  
11 because if you're dealing with ratios, uh,  
12 you would like to say that a certain  
13 percentage is within 1 standard deviation of  
14 the mean, a certain percentage with 2  
15 standard deviations of the mean, and, uh, I  
16 think we all know that, uh, ratio data is  
17 often and probably closer to standard when  
18 it's normally distributed, so the Chebyshev's  
19 theorem was introduced there just to say  
20 well, even if it's not normally distributed,  
21 what can you say, uh, based on just knowing  
22 the mean and the standard deviation of the  
23 data, and, uh, that's the only context, uh,  
24 that I think the Chebyshev's theorem has ever  
25 been mentioned in in the context of mass

1 appraisal, is to do with the distribution of  
2 sales ratios. It's to my knowledge never  
3 been used in conjunction with appraisal.

4 Q Right. So the -- the theorem is meant to be  
5 used once you've established your assessment  
6 to sales ratios, but it's not a theorem used  
7 to, if you want to say, Bob, stratify the  
8 sales into different groups. That's not what  
9 the intent of that is for.

10 A Well, no, it's never been used for that, uh,  
11 and, uh, our profession though is that ratio  
12 data is usually not normally distributed and  
13 that's why we use the median and the COD  
14 instead of the mean and the standard  
15 deviation, because, uh, the median always is  
16 the middle of the data and the COD always is  
17 the same thing, the average percentage  
18 deviation from the median regardless of the  
19 distribution of the data, whereas  
20 interpretation of a standard deviation  
21 depends on the distribution of the data.

22 Q Right. So when -- when we were looking at  
23 the capitalization rates, uh, for the City,  
24 and -- and I think you had that data and we  
25 saw that the capitalization rates tended to

1 be increasing up to the sale at about 50,000  
2 square feet, and then the sales beyond 50,000  
3 square feet were lower, um, would the -- is  
4 there any support, in your opinion, to extend  
5 the -- that line if you wish upwards past  
6 50,000 square feet?

7 A Well, no. No, frankly there's, uh -- and  
8 it's typical that once we get into big, um,  
9 big properties with a lot of square footage,  
10 growth potential in the area, and there's not  
11 many sales, and I think there was only two  
12 sales --

13 Q Yeah, two sales.

14 A -- two sales over 50,000 square feet of net  
15 useable area, and, uh, and most do -- you  
16 know, it fits what you guys had developed.  
17 It does appear that if you're at that point,  
18 uh, that a, uh, that the overall rate levels  
19 off, which is fairly typical in mass  
20 appraisal. It's -- so it's typical. We can  
21 never know exactly what -- what it should be,  
22 but based on the little data that there is,  
23 that seems appropriate. In any case, uh,  
24 there's just no -- no evidence or no support  
25 for extending it beyond 50,000 square feet.



1           Q     Right.  And -- and just to be clear, when  
2                   we're talking 50,000 square feet, that's the  
3                   maximum size, that's not a minimum, that's  
4                   the maximum size of that range?

5           A     Yeah, but -- and I believe -- I'm pretty sure  
6                   about this -- you can correct me if I'm  
7                   wrong, Gerry, but that you do make an  
8                   adjustment all the way up to 50,000 square  
9                   feet, and it's just that those larger  
10                  properties get no additional adjustment, they  
11                  get the same.  A 65,000-square-foot property  
12                  does get an adjustment, it's the same  
13                  adjustment as a 50,000-square-foot property.

14          Q     That's correct, Bob.  Yeah, it's -- it's --  
15                  the adjustment is calculated right up to  
16                  50,000 --

17          A     Okay.

18          Q     -- and then from 50,000 onward it's the same  
19                  adjustment.

20          A     I think that's a pretty -- a pretty deep -- a  
21                  pretty good size adjustment as it is.  I  
22                  don't have it right in front of me, but it's  
23                  so much for 1,000 square feet up to 50,000,  
24                  so you do make a considerable adjustment for  
25                  those larger properties, it's just that you

1           make no additional adjustment for those that  
2           are bigger than 50,000, and I can't get any  
3           support for it.

4           Q     Right.  Thanks, Bob.  Now, there is a -- the  
5           last paragraph you were speaking to dealt  
6           with the idea that in our rent model we make  
7           an adjustment for properties at 65,000 and  
8           that in our cap rate model we stop that at  
9           50,000 square feet, and you made a comment  
10          saying that's pretty normal to have different  
11          thresholds, if you wish, between a rent model  
12          and a capitalization model.

13          A     Sure.  Yeah, there's a few levels.  When you  
14          think about it, you usually make two  
15          adjustments for size.  You make one  
16          adjustment in the rent model and then you  
17          make a second adjustment in the cap rate  
18          model; so for items that you've already made  
19          an adjustment for the rent model, you can't  
20          expect to always make -- make another  
21          adjustment or an adjustment at the say  
22          breakpoint in the cap rate model, uh, but a  
23          cap rate -- and I'm sure that the experience  
24          with all of us that work in this area you say  
25          if you want adjustments in a cap rate model

1 as you do in a rent rate model, uh, because  
2 from an appraisal point of view you've  
3 already taken a lot into consideration when  
4 you develop the rent rate model.

5 Q Right. And -- and I appreciate that, Bob.  
6 Um --

7 A And again, it's true sort of like the  
8 additional adjustments that are appropriate,  
9 um, but, uh, uh, there's just -- I'm trying  
10 to say that there's more variables that  
11 affect rent than affect the cap rate because  
12 we've already adjusted for a lot of those  
13 through the rent model and, uh, but we do  
14 take make a second adjustment to the rent  
15 rate model, but others we don't need to, and,  
16 uh, you know, we do it, but at not  
17 necessarily the same cut-off point.

18 GERRY KRISMER: Right. Right. So based upon  
19 that, uh, I guess, uh, I don't know if I have  
20 any other questions to ask of you, Bob. Um,  
21 the Board hear -- the Panel hearing the  
22 appeal may have questions for you. As well,  
23 the Appellant might have a couple questions  
24 for you as well.

25 **EXAMINATION-IN-CHIEF CLOSES.**

1 ROBERT GLOUDEMANS: Sure. Sure. I'd be glad to  
2 try and answer them.

3 CHAIRPERSON: The Board does not have  
4 questions for the witness, um, and so, Mr.  
5 Simpson or Mr. Fieldgate, we'll give you the  
6 opportunity to, uh, ask the witness the  
7 questions you may have.

8 RYAN SIMPSON: Thank you, Madam Chair.

9 **CROSS-EXAMINATION BY MR. SIMPSON:**

10 Q Mr. Gloudemans, can you hear me?

11 A Yes.

12 Q Thank you for joining us today. Have you had  
13 the opportunity to become familiar with the  
14 City of Regina's industrial model?

15 A To some extent, to I guess you could say to a  
16 reasonable extent because I got the, uh, the  
17 narrative that, uh, the City developed  
18 explaining the model, so I see what the  
19 different rates are and an explanation of  
20 basically how the data was gathered and how  
21 it was analysed, and I know that multiple  
22 regression was used and so forth. I feel  
23 reasonably comfortable with it.

24 Q Perfect. Thank you. You mentioned medians  
25 over means. Um, so you would recommend that

1 a base or a constant capitalization rate for  
2 the sales array be developed with the median  
3 instead of the mean or average?

4 A No, no, no, that's -- that would be if we're  
5 going to a single cap rate for every  
6 property. Well, you can use the median cap  
7 rate or you could use the mean cap rate, but  
8 that -- it wouldn't be appropriate to use --  
9 it wouldn't be appropriate to do either, uh,  
10 because the cap rates vary with the age of  
11 the property, the location of the property,  
12 and so forth, but -- and, uh -- and the  
13 City's appropriately recognized that in the  
14 model that they developed, and it's not a  
15 simple median or a mean, it's really a  
16 distinct cap rate for every property.

17 Q Right. I suppose my question was in  
18 reference to the use of multiple regression  
19 and the application of an average for their  
20 base constant with other average adjustments  
21 being applied for the substratifications.  
22 But I'll -- I'll move on from that, Mr.  
23 Gloudemans.

24 A I'm not sure if I follow your question  
25 exactly. Multiple regression, uh, the way

1           it's set up in the City's model develops a  
2           capitalization rate for a base property,  
3           which is sort of like the typical industrial  
4           property, and, uh, then makes adjustments for  
5           differences from -- for the base property for  
6           differences for size and for age and location  
7           and several other things.

8           **Q**   Right. Thank you. So the current capped  
9           size threshold is 50,000 square feet, and  
10          there are no -- there's one sale at 50,300  
11          and some square feet and the next highest  
12          sized sale is at 87,000 square feet, followed  
13          by one final very large sale at 126,800  
14          square feet. There appears to be, uh, a bit  
15          of a dead zone or -- or significant space  
16          between the data between 50,300 square feet  
17          and 87,300 square feet. Did you, in  
18          reviewing the sales data, find that there was  
19          a significant space between those points?

20          **A**   Yeah, once you get over, oh, maybe about  
21          20,000 square feet, uh, there's -- yeah,  
22          20,000 square feet, there's relatively few  
23          sales, we've got maybe 10 or 12 sales over  
24          that, and of course as you get into the  
25          increasingly larger properties, uh, there's

1 fewer, there's only -- I think you're correct  
2 -- there's only two over approximately  
3 50,000, and, uh, so it's just that my point,  
4 there's a -- the City follows the data as  
5 best they can and then it starts to peter  
6 out, and as it does you see no additional  
7 decline of the cap rate, so there's just no  
8 evidence for -- for making an addition -- a  
9 further adjustment above 50,000 square feet.

10 Q Thank you. Given the fact that the two very  
11 largest sales are applied a specific rent  
12 adjustment, beginning at 65,000 and greater  
13 square feet, so the two sales being 87,000  
14 and 126,000 --

15 A Mhmm.

16 Q -- if these properties are single tenant and  
17 below the 65,000-square-foot threshold, you  
18 could have multi-tenanted warehouse  
19 properties or even single tenant warehouse  
20 properties up to the 65,000, they would not  
21 receive an adjustment although the data  
22 leading up to 50,000 square feet shows an  
23 incline, would you say that the sales between  
24 -- the sales that are greater than 65,000  
25 square feet and less than 65,000 square feet

1           are comparable given the negative 2.53 per  
2           square foot?

3           A    Well, I'm sure -- I don't follow your  
4           question. Like, they're all comparable to  
5           some extent because they're all industrial  
6           properties, but, like, I was just saying that  
7           they're all unique and they all require  
8           adjustment, but that's what the model does,  
9           it makes adjustments to the extent that it's  
10          possible to do so, based on the available  
11          data, and the adjustments that are made I  
12          think are consistent with what you'd normally  
13          find and with appraisal theory. So I don't  
14          know if that answers your question, because  
15          that's the reason we're making adjustments is  
16          they're all industrial properties but they're  
17          unique, they require different adjustments.

18          Q    Right. Thank you. I just have one more  
19          question, if I may, sir.

20          A    Oh sure.

21          Q    In testing data with size being the variable  
22          that we're looking at and all other variables  
23          being equal or not taken into consideration,  
24          when we're just looking at size --

25          A    Yes.



1           Q    -- would large single tenant properties being  
2           applied a specific negative adjustment of  
3           2.53 a square foot be comparable to  
4           properties that do not receive that  
5           particular adjustment that are smaller in  
6           extrapolation or in trending the data set?

7           A    I don't -- sorry, can you -- could you try  
8           asking the question again?

9           Q    I'll try.

10          A    It's good by me, but I think maybe where  
11          you're coming from is you're saying that the  
12          properties that are under 50,000 square feet  
13          some of them are multi tenant.

14          Q    Yes, sir.

15          A    Okay, there is a -- there's an adjustment in  
16          the model for the larger properties that are  
17          single tenant. Um, as they get larger up to  
18          50 some thousand square feet they get more  
19          and more of an adjustment, but at 50,000  
20          square feet the adjustment is capped off  
21          because beyond 50,000 square feet the little  
22          evidence we had, those two sales, uh, showed  
23          that there's no need for any additional  
24          adjustment.

25          Q    Thank you, sir. So with the limited data and

1           statistical testing being a component of mass  
2           appraisal, could you extrapolate the upward  
3           trend based upon the data leading up to  
4           50,000 square feet before you hit that rent  
5           adjustment applied to properties greater than  
6           65,000 square feet which are single tenant?

7           A     Just give me a second here.

8           Q     No problem.

9           A     The data set adjustment that we're talking  
10          about, uh, started at 10,000 square feet and  
11          then goes up to 50,000, so it's -- in effect  
12          it develops the trend, it's a curve, um,  
13          actually it -- okay, this -- it's really not  
14          a curve, it's a third adjustment. Per 1,000  
15          square feet, so starting at 10 and going up  
16          to 50, so in the -- in the regression model  
17          there's a variable that, um, that says what  
18          is the adjustment, the appropriate adjustment  
19          for properties from 10,000 to 50,000 square  
20          feet, um, with those two that are larger  
21          being treated the same as if they had 50,000  
22          square feet; and the model comes back and --  
23          and in the words -- the appropriate words  
24          that you used before, all other things being  
25          equal, once we've recognized the adjustment

1 for everything else and isolate the impact of  
2 size on the cap rate, it's, um, it's .044 per  
3 1,000 square feet, so the cap rate goes up.  
4 There's an upward adjustment to the cap rate  
5 of, uh, .044 for each 1,000 square feet from  
6 10,000 to 50,000. So the maximum adjustment  
7 would be 40 as the difference 10 and 50,000.  
8 40 times .044. So that's what I said  
9 initially. There's already a fairly decent  
10 adjustment being made to those larger  
11 properties, so if you multiply 40 times .044,  
12 what's that, about 1.6 or something like  
13 that, so it's already a considerable  
14 adjustment.

15 Q Thank you. Would you -- in your testimony,  
16 based upon Mr. Krismer's questions, you said  
17 the Chebyshev theorem can only be used for  
18 the ASR ratio studies, ratios; is that  
19 correct?

20 A I said -- I said that the only place I've  
21 seen it used in mass appraisal is in the  
22 context of ratio studies, and frankly I've  
23 only seen it there in a textbook situation.

24 Q Right.

25 A So, I mean, I've never seen anyone use it in

1 the real world.

2 Q In your --

3 A I've never seen anyone use it for mass  
4 appraisal other than in the context of ratio  
5 studies. It's discussed in -- in the book I  
6 mentioned there and it's I think it's also  
7 mentioned in the latest IAAO textbook that  
8 was written in 2011, uh, but again, it's --  
9 it's, uh, it's just in the context of, uh,  
10 the general distribution of data. It's --  
11 it's -- the Chebyshev's theorem is -- is true  
12 for any data, but really only -- the only  
13 potential application I can see in mass  
14 appraisal, the only place it's ever been  
15 mentioned is in the context of ratio study.

16 Q So you said potentially any data. Would that  
17 include capitalization rates?

18 A Yeah, it would include absolutely pretty much  
19 any data from capitalization rates, sale  
20 prices, square footage, uh, year built, and  
21 then also non-appraisal data, um, if you look  
22 at ages or the height of a classroom of  
23 students and so forth. But if you find the  
24 -- if you know the mean and the standard  
25 deviation, regardless of the distribution of

1           the data, you can always say that three-  
2           quarters lie within 1 standard deviation and  
3           89 percent within 2 standard deviations, so  
4           that's what I see really having practical  
5           use, uh, but I think in the context of a mass  
6           appraisal it's mentioned in the textbooks  
7           more as a safeguard, uh, 'cause people can  
8           get in trouble when they assume that ratios  
9           are normally distributed and they'll say wait  
10          a minute, in the world of assessment ratio  
11          studies usually the data is non-normally  
12          distributed and so you could say yeah, based  
13          on Chebyshev's theorem, but you better make  
14          sure that the data is normally distributed  
15          before you start using the standard  
16          deviation.

17         RYAN SIMPSON:            Mr. Gloude mans, I just want to  
18                                    thank you for answering my questions, and I  
19                                    will hand you back over to the Board and Mr.  
20                                    Krismer.

21         ROBERT GLOUDEMANS:       Okay, yeah. Thanks, guys. I  
22                                    did the best I could.

23         CHAIRPERSON:             Thank you, sir. Mr. Krismer,  
24                                    do you have anything in re-direct?

25         GERRY KRISMER:            I just have one question for

1           you, Bob, and -- and -- and it's a very  
2           simple one

3           **RE-EXAMINATION BY MR. KRISMER:**

4           **Q**    Um, as you're aware, the City of Regina has  
5           used multiple regression analysis in  
6           establishing their capitalization rates, and  
7           just to -- just to be clear for the Board's  
8           purpose, you would agree that using multiple  
9           regression analysis in establishing  
10          capitalization rates does meet a mass  
11          appraisal principle?

12          **A**    Yeah, it does, but like I tried to mention in  
13          response to a question maybe five or ten  
14          minutes ago, it's, uh, it's superior to just  
15          using a median or a mean because if you just  
16          use median or a mean it doesn't recognize the  
17          differences in properties. The advantage of  
18          multiple regression in developing a cap rate,  
19          or rent model for that matter, is twofold.  
20          One it allows you -- number one, it allows  
21          you to recognize the various differences that  
22          are relevant to the market, and number two,  
23          they're objective. You know, they're rooted  
24          in the data, it's not someone's opinion.

25          **Q**    Right. And that's -- that's exactly right,

1           Bob, that it's rooted in the data, not in --  
2           in somebody's opinion, right?

3           A    Mhmm.  Yeah, it's true that it takes an  
4           appraiser to develop the model because an  
5           appraiser needs to understand the market and  
6           what goes into it, what drives the market,  
7           and recognize those variables in the model,  
8           but discusses raw advantage, uh, that is  
9           supported by the -- by the data that comes  
10          from the market.

11         GERRY KRISMER:           Great, Bob.  Those are all my  
12           questions I have for you, and I don't know if  
13           the Board has any other questions for you.

14         **RE-EXAMINATION CLOSSES.**

15         CHAIRPERSON:            There are no other questions  
16           from the Board, and so, um, Mr. Gloudemans,  
17           thank you very much for making yourself  
18           available, and, um, we can terminate the call  
19           at this point.

20         GERRY KRISMER:           Thanks, Bob, and we'll be in  
21           touch here shortly, but we're going to end  
22           the call now, and thanks again, Bob.

23         ROBERT GLOUDEMANS:       Okay.  Sorry I couldn't be up  
24           there with you.  Okay.

25         GERRY KRISMER:           Thanks, Bob.  Have a great

1 day.

2 ROBERT GLOUEDEMANS: Okay. You guys good. Bye-  
3 bye.

4 GERRY KRISMER: Bye.

5 CHAIRPERSON: So in terms of appeal  
6 management, we have heard from the Appellant  
7 with respect to Appeal 28122. Mr. Krismer,  
8 we've heard from Mr. Miller and your expert.  
9 Um, in terms of time, we do have all of  
10 tomorrow, um, but I'm wondering, we're just  
11 at shortly after 4, if we should keep going  
12 today and perhaps try to finish off this  
13 particular appeal. Is there enough time to  
14 do that, or, um, should we break until  
15 tomorrow and finish this appeal tomorrow  
16 morning, get it done, and then go back to  
17 28100?

18 GERRY KRISMER: It would be my preference,  
19 Madam Chair, to -- to end today 'cause we'd  
20 be getting into our closing arguments or  
21 where we want on this issue, which may take  
22 us well past the 4:30-ish or thereabouts, but  
23 if we could pick up -- we've ended the -- the  
24 evidentiary side of this issue, I believe,  
25 and we just pick up in the morning, close on



1                   that issue, and then I can have the City's  
2                   witnesses available for a certain time  
3                   tomorrow morning and then carry on with the  
4                   first appeal. That would be my  
5                   recommendation.

6           CHAIRPERSON:                   Okay. Mr. Simpson, how does  
7                   that sound to you or Mr. Fieldgate?

8           ARCHIE FIELDGATE:               We would agree with Mr.  
9                   Krismer's proposal.

10          CHAIRPERSON:                   Okay.

11          ARCHIE FIELDGATE:               Start tomorrow morning fresh.

12          CHAIRPERSON:                   Okay. So, um, what we'll do  
13                   then is we will adjourn Appeal 28122 over to  
14                   tomorrow morning at 9 a.m. We will be  
15                   starting with then our closing arguments or  
16                   summation on this appeal, but before we do  
17                   that or perhaps right concurrent with that we  
18                   will also confirm for the purposes of the  
19                   record what happens in terms of carry  
20                   forward, or perhaps it might be a bit of  
21                   carry backward, um, so that we have the  
22                   arguments and evidence in the appeals where  
23                   they belong, and then we will conclude that  
24                   appeal, and we will then pick up with 28100  
25                   where Mr. Krismer's witnesses will be present

1                   and he will begin to put in the City  
2                   Assessor's case on that appeal, and then  
3                   we'll follow through with concluding that.  
4                   All right?

5   So Appeal 28122 is now  
6                   adjourned until 9 a.m. tomorrow. Thank you.

7           GERRY KRISMER:                   Thank you.

8           RYAN SIMPSON:                   Thank you, Madam Chair.

9           *(Adjourned at 4:07 p.m.)*

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