

IN THE MATTER OF A MEETING
OF THE BOARD OF REVISION
HELD AT THE CITY HALL, REGINA, SASKATCHEWAN
ON MARCH 24, 2015

EVIDENCE REGARDING

APPEAL NO. 27703
680 McLeod Street

Before: Ms. S. Dechaine, Panel Chair
Mr. C. Kesten, Member
Ms. L. Paidel, Member

Appearing for the Appellant (Altus Group):
Mr. A. Fieldgate
Mr. R. Simpson

Appearing for the Respondent (City of Regina):
Mr. G. Krismer
Mr. R. Schultze

Secretary to the Board:
Ms. Thompson

1 (HEARING CONVENED AT 9:00 A.M.)

2 CHAIRPERSON: Good morning, everyone,
3 on this lovely spring day. We're continuing
4 with cross-examination. Mr. Krismer, if you
5 want to continue.

6 MR. KRISMER: Thank you, Madam Chair.
7 Yesterday we left off at page 16 of the
8 appellant's written submission. I'm going to
9 pick it up today at -- starting at page 17 of
10 the written submission by the appellant.

11 CHAIRPERSON: Okay.

12 MR. KRISMER: Mr. Simpson, just so we
13 start the record off straight this morning,
14 dealing with 144 Henderson Drive, you would
15 agree that your company had initially filed
16 an appeal on 144 Henderson Drive; is that
17 correct?

18 MR. SIMPSON: Correct.

19 MR. KRISMER: And you would agree that
20 your company has now withdrawn the appeal on
21 144 Henderson Drive?

22 MR. SIMPSON: Correct.

23 MR. KRISMER: So in other words, the
24 owners don't take issue with the assessment
25 of 144 Henderson Drive; is that correct?

1 MR. SIMPSON: I wouldn't say that, no.

2 MR. KRISMER: They don't believe an
3 error is in the assessment?

4 MR. SIMPSON: If recollection serves me
5 right, they said fighting City Hall is nearly
6 impossible, and they don't think there's much
7 chance, and so they don't want to go ahead
8 with the appeal.

9 MR. KRISMER: Would it be correct,
10 Mr. Simpson, that if you're successful in
11 your arguments on 144 Henderson Drive, that
12 the assessment of 144 Henderson Drive will
13 actually increase?

14 MR. SIMPSON: Correct.

15 MR. KRISMER: Would that be the reason
16 they withdrew it?

17 MR. SIMPSON: No. Actually, they have
18 multiple properties in the city, and the
19 increase in 144 would be offset by the
20 decrease for their other properties.

21 MR. KRISMER: So just to be clear,
22 there's no allegation that the assessment of
23 144 Henderson Drive is incorrect?

24 MR. SIMPSON: I'm sorry, I don't
25 understand.

1 MR. KRISMER: Just to be clear, there's
2 no allegation from the owners of 144
3 Henderson Drive that the assessment for their
4 property is in error?

5 MR. SIMPSON: No allegation for the
6 board you mean or just in general? Because
7 in general, yes, there is a problem with the
8 assessment.

9 MR. KRISMER: But it's been withdrawn?

10 MR. SIMPSON: Correct.

11 MR. KRISMER: Okay. Turning to your
12 paragraph 56, you state that finished
13 leasable mezzanine should be included, and
14 you can find that in appendix 7. Can you
15 point me where in appendix 7 it states that?

16 MR. SIMPSON: I guess page 78 from
17 Mr. Wilken. Please be advised that for the
18 current assessment cycle, the effective year
19 built is the same as the actual year built
20 for most finished buildings. There are some
21 properties that have buildings where the
22 effective year built is not the same as the
23 actual year built. In these situations, the
24 buildings will have either undergone
25 extensive renovation, remodeling, or addition

1 activity. In order to reflect this work, our
2 office has adjusted the actual year built
3 through the applications, structural
4 reconstruction method or an averaging of the
5 section ages to establish an effective year
6 built, which reflects the impact of the
7 completed work on the building's components.

8 I believe the paragraph
9 that you stated, 56, indicates that addition
10 activity to a property --

11 MR. KRISMER: Where does it state in
12 tab 7 or appendix 7 where you state, finished
13 leasable mezzanine should be also included in
14 the calculation as explained by the city
15 through an e-mail in appendix 7? Where does
16 it state that? I'm not dealing with
17 effective --

18 MR. SIMPSON: Are you asking for a
19 quote, a specific quote?

20 MR. KRISMER: Yeah. Where does it
21 state, finished leasable mezzanine should be
22 included?

23 MR. SIMPSON: I don't believe anything
24 in that paragraph is in quotations.

25 MR. KRISMER: But it doesn't state that

1 in appendix 7?

2 MR. SIMPSON: A summary of appendix
3 7 --

4 MR. KRISMER: That's fine. I'll move
5 on off that. Where in the blueprint --
6 staying with paragraph 56, where are the
7 blueprints showing an exact total building
8 footprint of 63,098 square feet?

9 MR. SIMPSON: 18(1)(b)

10

11

12 MR. KRISMER: 18(1)(b)

13

14

15 MR. SIMPSON: Sure.

16 MR. KRISMER: So you don't have
17 blueprints showing 63,098 square feet; would
18 that be correct?

19 MR. SIMPSON: In evidence, no.

20 MR. KRISMER: In paragraph 56, you
21 state that the unheated warehouse adjustment
22 is \$3.14 per square foot. You'd agree,
23 Mr. Simpson, that it is not a rate per square
24 foot, but, in fact, a 50-percent adjustment
25 to the net rent; you'd agree with that

1 statement?

2 MR. SIMPSON: Sure. The net rent being
3 \$6.28.

4 MR. KRISMER: But the 50 percent is
5 applied to the total net rent, so if it were
6 a newer building, the net rent would be in
7 around the \$7 and change; therefore, the
8 adjustment is not \$3.14, but something
9 higher; you'd agree with that statement?

10 MR. SIMPSON: If the building was
11 unheated, sure.

12 MR. KRISMER: So, again, just to be
13 clear, the adjustment is not a dollar per
14 square foot adjustment, but, rather, a
15 percentage adjustment?

16 MR. SIMPSON: That can be used to draw
17 the dollar per square -- square foot
18 adjustment.

19 MR. KRISMER: But in the case of 144 --

20 MR. SIMPSON: Sure.

21 MR. KRISMER: -- it wouldn't be \$3.14,
22 would it?

23 MR. SIMPSON: Why not?

24 MR. KRISMER: If you take your base
25 rent of \$6 and change, add the dollar and

1 change to that, their adjustment would be
2 more than \$3.14, would it not?

3 MR. SIMPSON: Sure.

4 MR. KRISMER: Thank you. You make the
5 statement at the bottom of paragraph 56, the
6 difference is calculated to be the area that
7 is not currently being leased, but part of
8 the tenant agreement at no cost. Do you have
9 a copy of that tenant agreement?

10 MR. SIMPSON: I'm sorry, where are you
11 looking?

12 MR. KRISMER: The last sentence,
13 paragraph 56.

14 MR. SIMPSON: I don't have a tenant
15 agreement in evidence, no.

16 MR. KRISMER: Turning to paragraph --
17 paragraph 58, referencing appendix 18, that's
18 referencing the glossary of terms from the
19 provincial handbook?

20 MR. SIMPSON: Sure.

21 MR. KRISMER: And you referenced the
22 definition of gross leasable area?

23 MR. SIMPSON: Yeah.

24 MR. KRISMER: You would agree that it
25 includes a definition for gross leasable area

1 for offices and retail, but it does not
2 include a definition for warehouses; you'd
3 agree with that?

4 MR. SIMPSON: Correct.

5 MR. KRISMER: And you drew your
6 conclusions for gross leasable area based
7 upon the retail?

8 MR. SIMPSON: Conversations with SAMA,
9 as well as what was supplied in the glossary,
10 yes.

11 MR. KRISMER: So what conversations?
12 Where are those conversations in your
13 submission?

14 MR. SIMPSON: They're not.

15 MR. KRISMER: They're not. So you have
16 no support for your definition of gross
17 leasable area for warehouse; is that correct?

18 MR. SIMPSON: Just the one you gave me,
19 I believe.

20 MR. KRISMER: For retail office?

21 MR. SIMPSON: For warehouse.

22 MR. KRISMER: Turning to paragraph 60
23 of your submission -- and one might have to
24 keep this tab, tab 20, open and tab 20 (sic)
25 open at the same time. Looking at the areas

1 that you have listed in here in comparison to
2 the areas listed in tab 6, why did you change
3 the area from tab 6 of 10,500 square feet to
4 10,430 square feet?

5 MR. SIMPSON: My understanding is when
6 additions occur to a property, it's not just
7 a simple slap-on to the back of the property.
8 There's a certain amount of space that's
9 removed, that concrete needs to be tied in,
10 rebar, so on and so forth, and so a foot is
11 lost (INDISCERNIBLE).

12 MR. KRISMER: Do you have a diagram to
13 support those dimensions?

14 MR. SIMPSON: No.

15 MR. KRISMER: No. So we don't know
16 where that came from. Where did -- at tab 6,
17 there's two areas listed, 288 square feet and
18 884 square feet. I notice those areas aren't
19 in tab 20. Where did they go?

20 MR. SIMPSON: I know they were included
21 with the other spaces. I can't quite
22 remember which sections they went into,
23 though.

24 MR. KRISMER: Okay. So if I look at
25 it -- and to go along with that, on tab 6,

1 there was an area of 5,824 square feet --

2 MR. SIMPSON: Mhmm.

3 MR. KRISMER: -- and an area of 8,645
4 square feet. Where are those areas in tab
5 20?

6 MR. SIMPSON: Right. Well, what
7 happened was the 1987 addition was such a
8 size, the 8,000 size, with the renovation and
9 remodel, to create that portion of the area
10 into a lunchroom where they tore down the
11 wall and expanded the non-warehouse section,
12 and then the addition of the mezzanine space,
13 that's where the loss of one section comes
14 from and the addition of the other sections
15 come from.

16 MR. KRISMER: But, again, you don't
17 have a diagram specifying your areas that you
18 calculated?

19 MR. SIMPSON: Not a diagram, no.

20 MR. KRISMER: No. I notice on tab 20
21 under section 7, you list that as a
22 1995-built addition, yet in tab 6, it shows a
23 1996 building. Which is it, 1995 or 1996?

24 MR. SIMPSON: What line are you talking
25 about in tab 20?

1 MR. KRISMER: Section 7.

2 MR. SIMPSON: I'm trying to find it

3 here. I believe the 1995 was confirmed with
4 the owners in section 6. Based on the field
5 sheets, that's what it looked like.

6 MR. KRISMER: What field sheets?

7 MR. SIMPSON: The 2003 one from the
8 City of Regina.

9 MR. KRISMER: What is the correct
10 number? 1996 or 1995?

11 MR. SIMPSON: Well, confirmation with
12 the owners show that it was 1995?

13 MR. KRISMER: And you've got that
14 confirmation e-mail in your submission?

15 MR. SIMPSON: No.

16 MR. KRISMER: No. Noticing on that
17 same sheet section 3 and section 8 you list
18 as being built in 1978. Is it true that all
19 of the other reports in your submission show
20 that those were built in 1977; is that
21 correct?

22 MR. SIMPSON: Sure.

23 MR. KRISMER: Did you confirm that with
24 the owner?

25 MR. SIMPSON: They told me it was built

1 between 1977 and 1978.

2 MR. KRISMER: But all the reports show
3 1977, yet you're using 1978; is that correct?

4 MR. SIMPSON: Sure.

5 MR. KRISMER: Looking at page 18, it's
6 the end of paragraph 60. How do you arrive
7 at a net operating income of 485,100?

8 MR. SIMPSON: Sure. Does the -- do the
9 members have a calculator? I can walk
10 through the steps, if you'd like.

11 MR. KRISMER: Well, just show me in
12 your submission where you've calculated that.

13 MR. SIMPSON: Oh. Tab 22, page 294.

14 MR. KRISMER: So let's walk through
15 that list --

16 MR. SIMPSON: Sure.

17 MR. KRISMER: -- Mr. Simpson, here.

18 You have the base rent. I'll wait for the
19 board to get to that page, tab 22. You have
20 your base rent value of 392,160, and I'm
21 assuming that's based upon 62,446 square feet
22 at \$6.27 a square foot.

23 CHAIRPERSON: Please repeat the square
24 footage number, Mr. Krismer.

25 MR. KRISMER: 62,446.

1 CHAIRPERSON: Thank you.

2 MR. SIMPSON: It would be 62,446 times
3 \$6.28 per square foot.

4 MR. KRISMER: Okay. You then add in
5 the age adjustment of \$1.25, and, again,
6 you're basing that upon the square footage of
7 62,446; is that correct?

8 MR. SIMPSON: Yes.

9 MR. KRISMER: You then have an unheated
10 space of \$17,560. Now, I'm assuming that's
11 against the 4,000 square feet of unheated
12 warehouse?

13 MR. SIMPSON: Correct.

14 MR. KRISMER: And I'm assuming that
15 that rate per square foot on that is \$3.14 a
16 square foot; is that correct?

17 MR. SIMPSON: For just the space, but
18 not the age.

19 MR. KRISMER: You didn't include the
20 age adjustment in there; would that be
21 correct?

22 MR. SIMPSON: No, because if you go --
23 what I did was take the base rate, multiply
24 or take the base rate, apply 50 percent for
25 unheated space, and then I included the age

1 adjustment in addition to that rate to get
2 4.39 per square foot, times by 4,000 square
3 feet, to get 17,560.

4 MR. KRISMER: If you can do the math
5 for me on that, the base rate is \$6.28 a
6 square foot; is that correct?

7 MR. SIMPSON: Correct.

8 MR. KRISMER: And the age adjustment is
9 \$1.25, correct?

10 MR. SIMPSON: Correct.

11 MR. KRISMER: So you're unheated
12 adjustment is half of that combination, which
13 is half of \$7.53; is that correct?

14 MR. SIMPSON: I was following order of
15 operations.

16 MR. KRISMER: You weren't following --

17 MR. SIMPSON: I --

18 MR. KRISMER: -- the assessor's model?

19 MR. SIMPSON: Doesn't the assessor
20 follow order of operations?

21 MR. KRISMER: You would -- you're
22 suggesting that we don't reduce the age
23 adjustment by 50 percent; is that what you're
24 suggesting?

25 MR. SIMPSON: I don't know.

1 MR. KRISMER: Did you inquire how the
2 math that the assessor developed works?

3 MR. SIMPSON: Sure.

4 MR. KRISMER: You did. And if I were
5 to suggest that the correct net operating
6 income for that property is not 18(1)(b)(c) , but,
7 in fact, is 18(1)(b)(c) , would that change your
8 mathematics in the sense of the
9 capitalization rate?

10 MR. SIMPSON: If the numbers were,
11 indeed, different, sure.

12 MR. KRISMER: So, in fact, the
13 capitalization rate would decrease; would
14 that be correct?

15 MR. SIMPSON: From 10.72, sure.

16 MR. KRISMER: So do you agree that you
17 made an error in your mathematics at page
18 294?

19 MR. SIMPSON: Based upon industry
20 standards, no.

21 MR. KRISMER: What industry standards?

22 MR. SIMPSON: Order of operations we
23 learned in school.

24 MR. KRISMER: So if the assessor's
25 model works one way and what you learned in

1 school works another way, it's what you
2 learned in school versus how the assessor has
3 developed his model; is that correct?

4 MR. SIMPSON: The cap rate would be
5 10.97.

6 MR. KRISMER: 10.97? The income went
7 down, did it not?

8 MR. SIMPSON: From 144 Henderson Drive.

9 MR. KRISMER: So do you want to do the
10 math on that one again?

11 MR. SIMPSON: Sure.

12 MR. KRISMER: You have an income of
13 18(1)(b)(c) ?

14 MR. SIMPSON: Sure.

15 MR. KRISMER: What was the sale price?

16 MR. SIMPSON: 4.39.

17 MR. KRISMER: 4.3 or 4.1? 18(1)(b)(c) ,
18 would that be correct?

19 MR. SIMPSON: Yeah.

20 MR. KRISMER: So if you divide 18(1)(b)(c)
21 by 18(1)(b)(c) , what is the result?

22 MR. SIMPSON: 10.97.

23 MR. KRISMER: So if your income goes
24 down and the sale price doesn't change, how
25 did you get a cap rate of 10.72?

1 MR. SIMPSON: So that would have been
2 the applied cap rate, 10.72, to determine
3 what the new assessment would be. If you
4 look on the right-hand side there, it shows
5 11.02.

6 MR. KRISMER: So 11.02 --

7 MR. SIMPSON: Correct.

8 MR. KRISMER: -- is the calculated
9 capitalization rate?

10 MR. SIMPSON: That's right.

11 MR. KRISMER: And 10.72 is your --

12 MR. SIMPSON: It would be the median --

13 MR. KRISMER: Median cap rate.

14 MR. SIMPSON: -- (INDISCERNIBLE), yeah.

15 MR. KRISMER: With the correction to
16 the income, would that change the median cap
17 rate for your analysis?

18 MR. SIMPSON: Slightly.

19 MR. KRISMER: So I guess --

20 MR. SIMPSON: But it would improve the
21 c.o.d.

22 MR. KRISMER: But it doesn't -- it
23 isn't 10.72; is that correct?

24 MR. SIMPSON: Correct.

25 MR. KRISMER: Just to make sure that's

1 what's on --

2 MR. SIMPSON: Sure. No. What happens
3 generally then is the closer the rates get to
4 the median value, the smaller your c.o.d.
5 becomes. Sure, it does.

6 MR. KRISMER: We'll get to that in a
7 minute.

8 MR. SIMPSON: Sure.

9 MR. KRISMER: Staying with tab 22, you
10 have city model NOI in the middle of the page
11 at 18(1)(b)(c) .

12 MR. SIMPSON: Sure.

13 MR. KRISMER: You would agree that it
14 actually is 18(1)(b)(c) ; would that be correct?

15 MR. SIMPSON: Sure.

16 MR. KRISMER: So that's wrong then as
17 well?

18 MR. SIMPSON: Sure. Yes.

19 MR. KRISMER: Looking at the city
20 model, NOI, you show it as 18(1)(b)(c) . You move
21 over to the right-hand side, and you then
22 show it as 18(1)(b)(c) . So you rounded that one
23 up; is that correct?

24 MR. SIMPSON: Yes.

25 MR. KRISMER: Looking at the actual

1 model -- model NOI that you have on that page
2 of 18(1)(b)(c) , you then state that the model NOI
3 rounded is 18(1)(b)(c) . In that case, you
4 rounded down; is that correct?

5 MR. SIMPSON: Yes.

6 MR. KRISMER: So is it standard
7 appraisal practice to round up on one number
8 and round down on another number?

9 MR. SIMPSON: Based upon the sales that
10 were supplied --

11 MR. KRISMER: No. I'm looking at your
12 math --

13 MR. SIMPSON: Well --

14 MR. KRISMER: -- your math. Is it
15 standard --

16 MR. SIMPSON: I was --

17 MR. KRISMER: -- appraisal practice to
18 round up in one case and round down in
19 another case?

20 MR. SIMPSON: In this case, I was just
21 following the assessor's methodology.

22 MR. KRISMER: Oh, and the assessor
23 rounds up all the time, does he? Or rounds
24 up and down, you've got evidence of that?

25 CHAIRPERSON: Okay. Let's carry on.

1 MR. KRISMER: Moving on to page 18 and
2 dealing with 290 Henderson Drive, you have a
3 number of conversations with the property
4 owner on this, and I notice this property is
5 not under appeal.

6 MR. SIMPSON: Correct.

7 MR. KRISMER: Did you inform the
8 property owner that if you are successful in
9 this appeal, that their assessment will go
10 up?

11 MR. SIMPSON: I don't remember.

12 MR. KRISMER: You don't remember if you
13 told him that?

14 MR. SIMPSON: I don't recall.

15 MR. KRISMER: Looking at page 19,
16 dealing with the table of sales on page 19,
17 with 144 Henderson Drive --

18 MR. SIMPSON: Mmhmm.

19 MR. KRISMER: -- you have a predicted
20 income of 18(1)(b)(c) ?

21 MR. SIMPSON: Sure. Yes.

22 MR. KRISMER: Where did that come from?

23 A Page 10.

24 CHAIRPERSON: Page 10 of what?

25 MR. SIMPSON: The appendix 4.

1 CHAIRPERSON: Thank you.

2 MR. KRISMER: So in this case, you
3 didn't use the predicted income that you had
4 developed at tab 22; is that correct?

5 MR. SIMPSON: I would have used yours
6 in that case.

7 MR. KRISMER: So you would agree that
8 that assessment for that page on tab 10 is
9 not the 18(1)(b)(c) -- or does not line up with
10 the information at tab 22; you'd agree with
11 that?

12 MR. SIMPSON: I believe in the
13 submission, I stated that paragraph 64 --
14 below is the current sales related, but the
15 three sales that were incorrectly removed by
16 the assessor, so it's the current assessment
17 and the current predicted NOI.

18 MR. KRISMER: Staying with that tab,
19 dealing with the two lines of 290 Henderson,
20 you would agree that that isn't the current
21 predicted NOI of 290 Henderson; you'd agree
22 with that?

23 MR. SIMPSON: Yes.

24 MR. KRISMER: So you didn't rely upon
25 the assessor's information in all cases?

1 MR. SIMPSON: Correct.

2 MR. KRISMER: You changed it where you
3 saw fit?

4 MR. SIMPSON: No.

5 MR. KRISMER: In your analysis, it was
6 your suggestion with 290 Henderson that it
7 should be removed from the large warehouse
8 analysis, even though it wasn't part of the
9 large warehouse analysis; you'd agree with
10 that statement?

11 MR. SIMPSON: No, I wouldn't.

12 MR. KRISMER: Was this -- were the
13 sales of 290 Henderson used to establish the
14 capitalization rate for the large warehouses?

15 MR. SIMPSON: I believe one of them was
16 used to establish the 9.92 percent cap rate,
17 and then it was determined that the net
18 operating income was incorrect, and so then
19 it was adjusted at which point it was deemed
20 to be atypical because 25 percent or more of
21 the property was unheated warehouse, at which
22 point it was removed from the stratification
23 to develop the obsolescence factor.

24 MR. KRISMER: Okay. For 2013. For
25 2014, though, were the sales of 290 Henderson

1 used in establishing the current
2 capitalization rate of 9.43?

3 MR. SIMPSON: Just the adjustment.

4 MR. KRISMER: But it -- they were not
5 used to establish the 9.43, let's be clear on
6 this. Is that correct?

7 MR. SIMPSON: Correct.

8 MR. KRISMER: They were used to
9 establish an adjustment that is applied to
10 both large and small warehouses for
11 substantial unheated spaces; is that correct?

12 MR. SIMPSON: Yes.

13 MR. KRISMER: But that they -- that
14 adjustment is applied not just to large, but
15 to all warehouses; is that correct?

16 MR. SIMPSON: Correct.

17 MR. KRISMER: So the removal or the
18 discussion around 290 Henderson does not
19 impact the current capitalization rate
20 applied to the property; is that correct?

21 MR. SIMPSON: No, that's not correct.

22 MR. KRISMER: Why isn't it correct?

23 MR. SIMPSON: Well, by utilizing those
24 two sales to develop an obsolescence factor
25 with the third property in that obsolescence

1 grouping, being 1500-5th Avenue, what occurs
2 is by removing the 290 Henderson Drive sales,
3 we are left with one property which cannot
4 alone be tested, and it needs to be placed
5 somewhere. As such, the cap rate then for
6 the large warehouse would -- will change
7 based upon the removal of the 290 Henderson
8 Drive sales from the large -- or from the
9 obsolescence factor.

10 MR. KRISMER: Correct. So let's be
11 clear. At paragraph 69, therefore, removes
12 290 Henderson Drive sales from the large
13 warehouse stratification. You'd agree that
14 290 Henderson was not part of the large
15 warehouse stratification. Let's just be
16 clear about that.

17 MR. SIMPSON: Yes.

18 MR. KRISMER: And then you state: That
19 places them in the small warehouse
20 stratification.

21 MR. SIMPSON: When you --

22 MR. KRISMER: Correct?

23 MR. SIMPSON: -- look at what sold at
24 the time of --

25 MR. KRISMER: Sure. And I'm not

1 debating it.

2 MR. SIMPSON: Sure.

3 MR. KRISMER: I'm just saying you --
4 you're suggesting they should be in the small
5 warehouse stratification.

6 MR. SIMPSON: Yes.

7 MR. KRISMER: Okay. Moving down to
8 paragraph 71, 1500-5th Avenue, this property
9 is also not under appeal; you'd agree with
10 that?

11 MR. SIMPSON: Correct.

12 MR. KRISMER: And you would agree that
13 if you're successful in your allegations,
14 that the assessment of this property would
15 also go up?

16 MR. SIMPSON: I don't know.

17 MR. KRISMER: Well, if it is currently
18 receiving a negative 16-percent adjustment
19 and that adjustment goes away, wouldn't that
20 mean that the assessment would go up by 16
21 percent?

22 MR. SIMPSON: Not necessarily. If the
23 cap rate also increased, then it could be
24 offset by that much.

25 MR. KRISMER: I'm going to turn you to

1 page 22 of your submission, and this is where
2 you were discussing the flexibility of a good
3 assessment model, where a good assessment
4 model would be flexible enough to address the
5 variations in the marketplace. If one were
6 to collapse the analysis downwards and just
7 apply a blanket to every property, is that
8 being flexible, or is that being very rigid
9 in that you can't capture the nuances in the
10 marketplace?

11 MR. SIMPSON: I would say flexible.

12 MR. KRISMER: Flexible in the fact that
13 you now can't make these minor adjustments?

14 MR. SIMPSON: I wouldn't say that.

15 MR. KRISMER: At the bottom of
16 paragraph 83, you make this statement:
17 Through their sales analysis, the city has
18 ignored the equity of unheated warehouses
19 throughout the city.

20 Is it your suggestion,
21 Mr. Simpson, that we should remove the
22 unheated warehouse adjustment and, therefore,
23 ignore the unheated adjustment?

24 MR. SIMPSON: Within the model, there
25 is an adjustment being applied, and I view

1 the obsolescence as an additional adjustment
2 that isn't warranted.

3 MR. KRISMER: That's your opinion?

4 MR. SIMPSON: Yes.

5 MR. KRISMER: Now, you make the
6 statement that it's a quintessential cap
7 rate. What's the definition of
8 quintessential?

9 MR. SIMPSON: I don't have a dictionary
10 in front of me, sorry.

11 MR. KRISMER: If I were to suggest that
12 it's pure, most perfect, would that be
13 correct?

14 MR. SIMPSON: I don't believe so.

15 MR. KRISMER: Okay. I guess we can
16 look that up ourselves, but --

17 MR. SIMPSON: Sure.

18 MR. KRISMER: So if the city has
19 applied a pure and most perfect cap rate, is
20 that an error?

21 MR. SIMPSON: I don't know.

22 MR. KRISMER: I'm going to go quickly
23 through the next few, and I'm going to turn
24 you to page 23 and paragraph 89. And you've
25 got in the research the definition of fair.

1 And you state that it's marked by
2 impartiality, honesty, free from
3 self-interest, prejudice, or favoritism.

4 Looking at your
5 submission, it appears to me that with the
6 withdrawal of certain appeals and your
7 answers today, are you being impartial,
8 honest, free from self-interest, prejudice,
9 or favoritism?

10 MR. SIMPSON: Yes.

11 MR. KRISMER: Turning to paragraph --
12 or page 24. And you're dealing with your
13 dart board now. I'm looking at that and
14 saying, what point on that dart board was
15 that person throwing their darts at?

16 MR. SIMPSON: Okay.

17 MR. KRISMER: What point were they
18 throwing them at? You're saying it could be
19 precise or consistent, but not accurate.
20 Wouldn't that depend upon what the target is?

21 MR. SIMPSON: Often the target is
22 generally a bull's eye.

23 MR. KRISMER: Is it?

24 MR. SIMPSON: Isn't it?

25 MR. KRISMER: I'll leave that alone.

1 You state in paragraph 91 that the model ASR
2 becomes 1.10. Can you show me where that is?

3 MR. SIMPSON: No.

4 MR. KRISMER: Pardon me?

5 MR. SIMPSON: I don't know.

6 MR. KRISMER: You make the statement
7 that it becomes 1.1. Where in your
8 submission do you have that?

9 MR. SIMPSON: I'm not sure.

10 MR. KRISMER: Turning to page 25. And
11 here's your analysis of the assessment of
12 sales ratios and coefficient of dispersions.
13 The first table you show 16 small sales, four
14 large sales, and two pre-1980 sales. That
15 would be 22 sales. Where's the other two
16 sales?

17 If we could, Madam Chair,
18 it might be easier, seeing that he's locating
19 it on his laptop, if he wants a break to --
20 to turn it on, fire it up, and find those.
21 Is it appropriate at this point in time?

22 CHAIRPERSON: Are you -- are you almost
23 completed your cross?

24 MR. KRISMER: No, Madam Chair.

25 CHAIRPERSON: Yes. Let's take a

1 ten-minute -- until five after.

2 (Recessed at 9:55 a.m.)

3 (Reconvened at 10:05 a.m.)

4 CHAIRPERSON: You can answer now?

5 MR. SIMPSON: Madam Chair, I tried to
6 get on to our system. We have a tool, but we
7 can usually log on to our, what we call, P
8 drive, and it allows us access to all of our
9 files that way. I was only able to get on
10 to -- open up my computer and get to my
11 documents, which there's nothing there to
12 utilize, so I'm very sorry, but I wasn't able
13 to get the information I needed.

14 I would think that it's
15 probably the same sales as yesterday, the
16 1205 East Pettigrew, but I can't be certain.

17 MR. KRISMER: 1205 East Pettigrew, just
18 for clarity, are not large warehouses; you
19 would agree with that?

20 MR. SIMPSON: Sure.

21 MR. KRISMER: So we don't know which
22 ones they are. They would be in that 16
23 count, not the four count; would that be
24 correct?

25 MR. SIMPSON: Sure. Yes.

1 MR. KRISMER: Right?

2 MR. SIMPSON: Yes.

3 MR. KRISMER: Looking at the next
4 table, you show 23 sales, now five sales in
5 the greater than 25,000. The table above had
6 four. Which one is that in?

7 MR. SIMPSON: In 2014, that would have
8 been 1500-5th Avenue.

9 MR. KRISMER: Okay. So that's your
10 2014 analysis, not the current, 2015,
11 analysis?

12 MR. SIMPSON: Right. Like, the chart
13 before, the title is 2013 --

14 MR. KRISMER: Right.

15 MR. SIMPSON: -- and then 2014, yeah.

16 MR. KRISMER: Turning to page 26. And
17 I'm looking at this 2014 analysis again. You
18 show an applied cap rate of 992 and an
19 applied cap rate of 1041. You would agree
20 that that is not the analysis that's in place
21 today?

22 MR. SIMPSON: Yes.

23 MR. KRISMER: So, again, it's --
24 necessarily it's irrelevant to the matter at
25 hand today; would that be correct?

1 MR. SIMPSON: This case has been an
2 ongoing issue for a while, and it was meant
3 to show kind of the process that it's taken.

4 MR. KRISMER: But it doesn't
5 demonstrate an error in the current analysis;
6 that's correct?

7 MR. SIMPSON: This particular table --

8 MR. KRISMER: Right.

9 MR. SIMPSON: -- no.

10 MR. KRISMER: And nor do the tables on
11 page 25; is that correct?

12 MR. SIMPSON: Yes.

13 MR. KRISMER: On page 27, the top
14 table, that's the current analysis; you would
15 agree with that?

16 MR. SIMPSON: Yes.

17 MR. KRISMER: And that's using all 24
18 sales. The label on that shouldn't be 2014
19 warehouse. It should be 2015 warehouse; is
20 that correct?

21 MR. SIMPSON: I think I did this one at
22 the tail end of 2014, in December, when the
23 roll was open, but, yes, you're correct. It
24 would be for the 2015 year.

25 MR. KRISMER: Looking at the

1 coefficient of dispersion for the 21 sales,
2 you show a 9.61 percent c.o.d. Looking at
3 your table below where you're using 22 sales,
4 you have a 9.67 based upon your analysis.
5 You'd agree that the city's analysis at 9.61
6 is still better than your analysis at 9.67?

7 MR. SIMPSON: No, because you've
8 removed sales that shouldn't have been
9 removed.

10 MR. KRISMER: In your analysis in your
11 proposed warehouse model, you showed 22
12 sales, four greater than 25,000 square feet,
13 16 less than 25,000 square feet. Was it not
14 your earlier submission that the two sales of
15 290 Henderson should have been included in
16 the less than 25,000 square feet? Where are
17 they in that analysis? To put it simply, you
18 would agree that you haven't included the
19 two -- two sales of 290 Henderson --

20 MR. SIMPSON: That looks right.

21 MR. KRISMER: -- in any of that
22 analysis, correct?

23 MR. SIMPSON: That looks right.

24 MR. KRISMER: Yet earlier you said you
25 should; is that correct?

1 MR. SIMPSON: As one option, yes.

2 MR. KRISMER: Would that change your
3 resulting statistics?

4 MR. SIMPSON: Yes.

5 MR. KRISMER: Yes. Looking at the
6 table below paragraph 97, you show 16 sales
7 in the less than 25,000 square feet. Now you
8 have six sales in the greater than 25,000
9 square feet. Did you put 290 Henderson back
10 into the greater than 25,000 square foot
11 grouping?

12 MR. SIMPSON: As paragraph 97
13 stipulates, yes. It was to look at an
14 alternative. The reason for this is due to
15 the tenant agreement or the lease agreement
16 for the land at \$6,500 per year, that NOI
17 included the land value.

18 MR. KRISMER: But earlier you said that
19 they should be in the small grouping,
20 correct?

21 MR. SIMPSON: Right. This was just an
22 alternative, if the board found that they
23 shouldn't be removed out of the large
24 grouping.

25 MR. KRISMER: But they were never part

1 of the large grouping; you would agree? You
2 said that earlier.

3 MR. SIMPSON: Well, no. In 2013, the
4 290 Henderson Drive sale was part of the
5 large grouping.

6 MR. KRISMER: We're not dealing with
7 2013. We're dealing with 2015. In 2015 --

8 MR. SIMPSON: You asked if they were at
9 one point, and they were at one point.

10 MR. KRISMER: For the current
11 analysis --

12 MR. SIMPSON: Yes.

13 MR. KRISMER: -- they are not?

14 Looking at your total on
15 the following page, which is a summary of
16 that table, you showed 22 sales with a 10.61
17 percent coefficient of dispersion. How many
18 sales are there?

19 MR. SIMPSON: That might be a typo.

20 Yeah, that would be a typo.

21 MR. KRISMER: And so your result is a
22 10.61 percent with a typo and using two sales
23 in the wrong grouping?

24 MR. SIMPSON: No. That wasn't what I
25 said.

1 MR. KRISMER: Quickly go through your
2 tabs, Mr. Simpson, and I think it has to be
3 clear as to what -- we've touched on many of
4 them.

5 MR. SIMPSON: Yes.

6 MR. KRISMER: But I want to touch on a
7 few more.

8 MR. SIMPSON: Very well.

9 MR. KRISMER: Turning to tab 14 of your
10 submission, Mr. Simpson --

11 MR. SIMPSON: Yes, sir.

12 MR. KRISMER: Earlier you had suggested
13 that this tab was dealing with the
14 renovations of 144 Henderson Drive. If I
15 turn to page 237 --

16 MR. SIMPSON: Yes.

17 MR. KRISMER: -- you'd agree that this
18 report that was completed in May of 2009 was
19 to determine the possibility of moving and
20 operating the warehouse and stockroom at 175
21 Henderson Drive, and this had nothing to do
22 with the renovations or the like --

23 MR. SIMPSON: No.

24 MR. KRISMER: -- at 144 Henderson.

25 MR. SIMPSON: It did. As they were

1 moving and renovating materials in 144 to
2 this new location.

3 MR. KRISMER: To the new location.

4 MR. SIMPSON: Yeah.

5 MR. KRISMER: So these are the
6 renovations in the new location, not the
7 renovations in 144 Henderson?

8 MR. SIMPSON: Yes.

9 MR. KRISMER: Yes. Looking at that,
10 can you tell me what age 175 Henderson Drive
11 is?

12 MR. SIMPSON: No.

13 MR. KRISMER: If I were to suggest that
14 the age is 1976, would you disagree?

15 MR. SIMPSON: I don't know.

16 MR. KRISMER: So they're moving their
17 business into a 1976 building, not a 1990
18 building?

19 MR. SIMPSON: (NO AUDIBLE RESPONSE).

20 MR. KRISMER: Turning to page 251 --
21 and 18(1)(b)

22

23 MR. SIMPSON: I'm sorry, what page?

24 MR. KRISMER: 251.

25 MR. SIMPSON: Sure. Yes.

1 MR. KRISMER: And you had referenced
2 these?

3 MR. SIMPSON: Yes.

4 MR. KRISMER: 18(1)(b)

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12 MR. SIMPSON: 18(1)(b)

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15 MR. KRISMER: 18(1)(b)

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17 MR. SIMPSON: 18(1)(b)

18 MR. KRISMER: 18(1)(b)

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24 MR. SIMPSON: 18(1)(b)

25

1 18(1)(b)

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3 MR. KRISMER: 18(1)(b)

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5 MR. SIMPSON: Oh, that's from -- that's
6 what I understood from your question.

7 MR. KRISMER: No. I'm asking --

8 MR. SIMPSON: So I just wanted to
9 clarify.

10 MR. KRISMER: 18(1)(b)

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12 MR. SIMPSON: 18(1)(b)

13 MR. KRISMER: 18(1)(b)

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20 MR. SIMPSON: 18(1)(b)

21 MR. KRISMER: 18(1)(b)

22 MR. SIMPSON: 18(1)(b)

23 MR. KRISMER: 18(1)(b) I'm going

24 to get you to turn to tab 31 of your

25 submission.

1 MR. SIMPSON: Yes.

2 MR. KRISMER: Looking at the analysis
3 on tab 31, you identify a lower limit of .06
4 and an upper limit of .12. Would that be the
5 95 percent confidence limits?

6 MR. SIMPSON: I'm not sure.

7 MR. KRISMER: Can you explain to the
8 board how you can get an upper limit or a
9 lower limit out of three sales when the lower
10 limit on the three sales is 8.99 and the
11 upper is 10.41? How can you do that with
12 three sales?

13 MR. SIMPSON: Sure. IAAO standard on
14 ratio studies, their guide, which can be
15 found in appendix 34, discusses in appendix
16 B, page 53 of their document, 4.3 of mine,
17 that one such method to determine outliers is
18 the outlier guidelines where they list
19 interquartile ranges as one such analysis to
20 determine the, I guess, relationship of a
21 sale or whatever, a data point, to the rest
22 of the array or the rest of the grouping.

23 MR. KRISMER: So you would agree that
24 you cannot calculate a confidence interval on
25 fewer than six sales; you'd agree with that?

1 MR. SIMPSON: If I was doing the
2 confidence interval, sure.

3 MR. KRISMER: And you would agree that
4 the standard on ratio studies is suggesting
5 14 sales, not three sales?

6 MR. SIMPSON: I believe that was just
7 an example. It's not a suggestion.

8 MR. KRISMER: Turning to tab 385, using
9 five sales now, again, completing the same
10 analysis, you have a lower limit of .04, an
11 upper limit of .16. Yet I noticed in the
12 bottom, it's saying a true -- when 12.82 fits
13 within that range of .04 to .16. Can you
14 explain that?

15 MR. SIMPSON: Sure. That's -- the
16 outlier Z score is a different analysis than
17 the interquartile range analysis.

18 MR. KRISMER: So what is the purpose of
19 that bottom analysis then?

20 MR. SIMPSON: It was just part of the
21 template I was using.

22 MR. KRISMER: Can you explain to the
23 board what it means?

24 MR. SIMPSON: I'm not too well versed
25 with the Z.

1 MR. KRISMER: Or with the statistics
2 that result from that. So the interquartile,
3 you don't know if that's the 95 percent
4 confidence interval, and you're not well
5 versed with the Z stat. What is the purpose
6 of those then?

7 MR. SIMPSON: The outlier term analysis
8 is pretty self-explanatory. You have your
9 high, and you have your low and what fits
10 within the range, as pursuant --

11 MR. KRISMER: Did you test --

12 MR. SIMPSON: -- to high, medium, low
13 (INDISCERNIBLE) --

14 MR. KRISMER: -- did you test this --

15 MR. SIMPSON: -- to (INDISCERNIBLE).

16 MR. KRISMER: Yeah. Did you test this
17 on 24 sales?

18 MR. SIMPSON: I don't -- I'm not sure.
19 I don't know.

20 MR. KRISMER: You don't know if you
21 did?

22 MR. SIMPSON: Well, I can't remember
23 doing it. I might have. I don't know.

24 MR. KRISMER: But it would be
25 appropriate to test for outliers on all your

1 warehouse sales; would that be correct?

2 MR. SIMPSON: Yes.

3 MR. KRISMER: Turning to tab 33, page
4 418, looking at the calculations you have
5 there, dealing with 1135-8th Avenue, you
6 would agree that the net operating income --
7 it's a calc -- C-A-L-C -- sale NOI. That
8 item for 1135-8th Avenue should not be
9 18(1)(b)(c) , but, rather, 18(1)(b)(c) ; would that be
10 correct?

11 MR. SIMPSON: That's correct to the
12 current model.

13 MR. KRISMER: You do agree that the
14 assessor had provided you the correct NOI of
15 that property, and yet you're continuing to
16 use an incorrect NOI for that property?

17 MR. SIMPSON: The NOI provided by the
18 assessor I don't think was correct.

19 MR. KRISMER: In your line item for 144
20 Henderson Drive -- and we've gone through
21 this a bit already -- you would agree that
22 the correct NOI would be 18(1)(b)(c) , not
23 18(1)(b)(c) ; is that correct?

24 MR. SIMPSON: No, I would not agree.

25 MR. KRISMER: Earlier you said that the

1 NOI of that property was 18(1)(b)(c) . Now you're
2 showing it as 18(1)(b)(c) . What's the
3 difference?

4 MR. SIMPSON: Rounding issues when it
5 comes to applying cap rate multiplied by
6 adjusted sale price.

7 MR. KRISMER: Sorry?

8 MR. SIMPSON: Well --

9 MR. KRISMER: How do you --

10 MR. SIMPSON: -- from the model that
11 was presented to us, we get two decimal
12 places generally. Now, what happens is when
13 you take your adjusted sale price multiplied
14 by your cap rate that has so many point the
15 past the decimal, it doesn't match exactly to
16 what the cap rate and NOI is, and so when the
17 supplied NOI is given, which is generally
18 rounded and analyzed to the adjusted sale
19 price, it doesn't exactly match the cap rate
20 either. There's a bit of rounding involved.

21 MR. KRISMER: But, again, I'm looking
22 at your tab 22.

23 MR. SIMPSON: Okay.

24 MR. KRISMER: You stated in that tab
25 that the NOI is 18(1)(b)(c) to arrive at a cap

1 rate of 11.02 percent.

2 MR. SIMPSON: Yes.

3 MR. KRISMER: In this one, you're using
4 18(1)(b)(c) . Where did that number come from?

5 MR. SIMPSON: So what you would do is
6 you take 11.02 --

7 MR. KRISMER: Mhmm.

8 MR. SIMPSON: -- and you would -- or --
9 sorry. You would take .1102 times by the
10 adjusted sale price, and that would give you
11 the calculated NOI.

12 MR. KRISMER: So which one is the
13 correct NOI? I thought we did the math back
14 in tab 22 using 18(1)(b)(c) .

15 MR. SIMPSON: Well, like I said, it's a
16 rounding issue generally. And in tab 22, I
17 think you said, in that analysis, it was the
18 order of operations that was different.

19 MR. KRISMER: No, no. I'm looking at
20 your math, not our math in that one.

21 MR. SIMPSON: Oh, I see. So what tab
22 are you looking at right now?

23 MR. KRISMER: Tab 22 and tab 33.

24 MR. SIMPSON: That would be a
25 difference of .5 of a percent in the cap

1 rate. So, again, a rounding issue -- or less
2 than .5 a percent, sorry.

3 MR. KRISMER: Turning to page 419, it
4 was your allegation that with the adjustment
5 to the income for 1500-5th, that there would
6 be no further requirement to make an
7 adjustment for the unheated warehouse space
8 or that it would fall within the normal. I
9 notice on that page under your economic cap
10 rate list, 1500-5th, which is the bottom row,
11 is still generating the highest
12 capitalization rate of all those warehouses,
13 even though the income has already been
14 adjusted. So would that tell you that it
15 still needs a further adjustment?

16 MR. SIMPSON: Not at all. Under mass
17 appraisal, you have highs and lows of various
18 numbers, and --

19 MR. KRISMER: But earlier you said that
20 the income takes care of it all?

21 MR. SIMPSON: Right.

22 MR. KRISMER: So wouldn't you expect
23 the calculated cap rate then to be closer to
24 the middle of the pack, not still the
25 highest?

1 MR. SIMPSON: Not necessarily.

2 MR. KRISMER: Again, your opinion,

3 right?

4 MR. SIMPSON: (NO AUDIBLE RESPONSE).

5 MR. KRISMER: Turning to your appendix

6 items on your rebuttal --

7 MR. SIMPSON: Sure.

8 MR. KRISMER: Page 11 of the rebuttal.

9 So you were able --

10 MR. SIMPSON: Yes.

11 MR. KRISMER: -- to recreate the

12 assessor's calculations; you'd agree with

13 that?

14 MR. SIMPSON: Yes.

15 MR. KRISMER: Page 12, you were able to

16 recreate the assessor's calculations.

17 MR. SIMPSON: Yeah, yes.

18 MR. KRISMER: And on page 11, as

19 percentage of replacement cost new, as was

20 suggested by SAMA, the effective age of the

21 properties, 1988.5; is that correct?

22 MR. SIMPSON: With sections missing,

23 yes.

24 MR. KRISMER: What sections?

25 MR. SIMPSON: 13 to 19, I believe.

1 MR. KRISMER: Does the assessor have
2 sections 13 through 19?

3 MR. SIMPSON: I just noticed it jumps
4 from 12 to 20.

5 MR. KRISMER: But that's just a
6 numbering process.

7 MR. SIMPSON: If you say so.

8 MR. KRISMER: But you were able to
9 recreate the assessor's calculations?

10 MR. SIMPSON: Yes.

11 MR. KRISMER: Can you tell me if the
12 assessor has sections 13 through 19?

13 MR. SIMPSON: Not listed.

14 MR. KRISMER: Can you tell me whether
15 or not there are such sections on 144
16 Henderson?

17 MR. SIMPSON: I provided the total
18 evidence that the mezzanine spaces were not
19 being included.

20 MR. KRISMER: Turn to tab 12. You'd
21 agree mezzanine's included?

22 MR. SIMPSON: One of them.

23 MR. KRISMER: And it's a 1988 build?

24 MR. SIMPSON: That number's an error.

25 MR. KRISMER: 1988.34 is an error?

1 MR. SIMPSON: For the mezzanine.
2 MR. KRISMER: What's in error?
3 MR. SIMPSON: The total amount of
4 mezzanine.
5 MR. KRISMER: I'm asking whether or not
6 that 1988.34 is correct or not?
7 MR. SIMPSON: On page 12?
8 MR. KRISMER: Yes.
9 MR. SIMPSON: I believe it's incorrect.
10 MR. KRISMER: It's in your submissions.
11 So what's the correct number?
12 MR. SIMPSON: 1990.
13 MR. KRISMER: Do you have that math
14 with you? This is your submission I'm
15 looking at.
16 MR. SIMPSON: Right. This --
17 MR. KRISMER: So if I tally up -- if I
18 tally up percentage of RCN, do you arrive at
19 1988.34, yes or no?
20 MR. SIMPSON: Based upon Altus'
21 recreation of what you provided from your
22 submission --
23 MR. KRISMER: Yes.
24 MR. SIMPSON: -- that's what we're able
25 to generate.

1 MR. KRISMER: Okay. So that's correct?

2 MR. SIMPSON: Well --

3 MR. KRISMER: Page 13, again, you're
4 able to recreate the assessor's work at
5 1988.35, correct?

6 MR. SIMPSON: Yes.

7 MR. KRISMER: Page 14, you were able to
8 recreate the assessor's work, correct?

9 MR. SIMPSON: Yes.

10 MR. KRISMER: So I'm going to turn to
11 page 15.

12 MR. SIMPSON: Yes.

13 MR. KRISMER: I see you have now
14 sections 13, 14, 15, 16, and 17. Where are
15 sections 18 and 19 that you allege were
16 missing?

17 MR. SIMPSON: Probably a combination of
18 the groupings.

19 MR. KRISMER: Where's section 20?

20 MR. SIMPSON: It was taken into account
21 with -- it would be section 13.

22 MR. KRISMER: Where's section 12?

23 Right there. Where did you get the support
24 for the year built of sections 13 through 17?

25 MR. SIMPSON: From the owners.

1 MR. KRISMER: Do you have that in your
2 documentation?

3 MR. SIMPSON: I believe I do.

4 MR. KRISMER: Point me to it please,
5 Mr. Simpson.

6 MR. SIMPSON: I believe it was appendix
7 13 or was that -- no. Just a second.

8 MR. KRISMER: Just to speed up the
9 process, I believe, Mr. Simpson, yesterday
10 you said you didn't have that in your
11 submission.

12 MR. SIMPSON: 18(1)(b)(c)

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16 MR. KRISMER: It doesn't say when it
17 was --

18 MR. SIMPSON: Yeah.

19 MR. KRISMER: -- built. No.

20 MR. SIMPSON: No. The --

21 MR. KRISMER: 18(1)(b)(c)

22

23 MR. SIMPSON: 18(1)(b)(c)

24

25

1 18(1)(b)(c)

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5 MR. KRISMER: Okay. Just to move on,
6 Mr. Simpson, turning to page 16 of your
7 rebuttal submission --

8 MR. SIMPSON: Yes.

9 MR. KRISMER: I'm going to walk through
10 this slowly.

11 MR. SIMPSON: Okay.

12 MR. KRISMER: You have the city applied
13 capitalization rates to four sales --

14 MR. SIMPSON: Yes.

15 MR. KRISMER: -- 335 East Dewdney, 290
16 Henderson, 1500-5th, and 290 Henderson. Now,
17 I'm assuming that those are the sales that
18 have some portion or a good portion, in some
19 cases, of unheated space; is that correct.

20 MR. SIMPSON: All except 1205 East
21 Pettigrew.

22 MR. KRISMER: Where's 1205 East
23 Pettigrew on here.

24 MR. SIMPSON: That's what I'm saying,
25 they're not --

1 MR. KRISMER: No.

2 MR. SIMPSON: But --

3 MR. KRISMER: I'm saying --

4 MR. SIMPSON: (INDISCERNIBLE).

5 MR. KRISMER: -- that this -- these

6 sales, these four sales --

7 MR. SIMPSON: Yes.

8 MR. KRISMER: Correct?

9 MR. SIMPSON: Are some of the sales

10 that had some portion of unheated warehouse.

11 MR. KRISMER: So looking at the

12 assessments you calculate in the top graph,

13 you'd agree that those assessments, what you

14 calculated for an assessment, does not

15 include the minus 16 percent for unheated

16 space; you'd agree with that statement?

17 MR. SIMPSON: Correct.

18 MR. KRISMER: So those aren't the

19 actual assessments of the properties. That's

20 your calculation of what you think the

21 assessment might be; is that correct?

22 MR. SIMPSON: I suppose the assessment

23 was after the application of a cap rate and

24 before the -- I guess after the

25 capitalization rate adjustment, so, yes, in

1 respect to that.

2 MR. KRISMER: Yes, it's your
3 calculation, but it's actually not the
4 assessments. The assessments would be much
5 lower if you applied an unheated warehouse
6 adjustment that the assessor has; is that
7 correct?

8 MR. SIMPSON: A final assessment, yes.

9 MR. KRISMER: Yes. That's not the
10 final assessment, this says, and you -- you
11 wouldn't disagree with me if I were to
12 suggest that the median assessment to sales
13 ratio, once properly calculated for that
14 group, would be 1.01; you wouldn't disagree
15 if I were to suggest that, would you?

16 MR. SIMPSON: I'd have to look at the
17 numbers.

18 MR. KRISMER: Would you disagree if I
19 were to suggest that the coefficient of
20 dispersion for that group -- and that's only
21 four -- is actually 13.4, not 22.27 --

22 MR. SIMPSON: I'd have to look at the
23 numbers.

24 MR. KRISMER: -- (INDISCERNIBLE)
25 property.

1 Looking at your next
2 chart where it says: Altus supplied
3 capitalization rate to city derived net
4 operating income.

5 I'm going to bounce
6 around a bit too on this. I'll go back up
7 to -- or back on that one. I notice on 290
8 Henderson, you have a net operating income
9 for the first one at 18(1)(b)(c) , but on the
10 second one 18(1)(b)(c) . Can you explain the
11 difference?

12 MR. SIMPSON: Right.

13 MR. KRISMER: They're the same
14 property.

15 MR. SIMPSON: Right. That were --
16 those were the numbers I took from your
17 submission.

18 MR. KRISMER: Where did you calculate
19 18(1)(b)(c) and 18(1)(b)(c) ?

20 MR. SIMPSON: I didn't calculate those.
21 Those were provided in your submission.

22 MR. KRISMER: Where?

23 MR. SIMPSON: Okay. If I can get you
24 to turn to page 287 of the assessor's
25 submission -- and I should, I guess, adjust

1 my remark. I did calculate the net operating
2 income based upon the cap rate that was given
3 by the city in their submission.

4 On page 287 of the
5 assessor's submission, for the first 290
6 Henderson Drive sale, it had it listed as
7 27.53 percent unheated -- or percent
8 unheated. And the next column over, they
9 have 9.75 percent under the heading
10 calculated capitalization rate reflecting
11 percent unheated. And then in the third --
12 or the fourth column, they have an ASR
13 heading with a 1.07 -- and so if you were to
14 take .0975 and multiply it, the adjusted sale
15 price, you get a net operating income of
16 18(1)(b)(c) .

17 And if you go to the
18 bottom row of the chart on -- found on page
19 287, the assessor's submission, you'll see
20 290 Henderson Drive in the address column.
21 In the -- in the next column, under the
22 heading percent unheated, you'll find 27.53
23 percent. In the next column, under the
24 heading calculated capitalization rate
25 reflecting percent unheated, you'll find an

1 applied cap rate or a calculated cap rate by
2 the city of 15.73 percent, and in the far
3 right-hand column, under the heading ASR,
4 you'll find 1.60 percent -- or 1.60.

5 So when you take .1573
6 and you multiply that by the adjusted sale
7 price of 18(1)(b)(c) , you get a net operating
8 income of 18(1)(b)(c) , which would explain the
9 difference in the net operating incomes in
10 that chart.

11 MR. KRISMER: So the -- what is the
12 correct net operating income for those sales?
13 Did you calculate it, other than doing that
14 math?

15 MR. SIMPSON: I believe it's roughly
16 §18(1)(b)(c)

17 MR. KRISMER: Okay. Moving on to that,
18 that 18(1)(b)(c) -- the next column, Altus
19 analysis to actual NOI of a property, you'd
20 agree that's the actual net operating income
21 of that property, you'd agree with that, for
22 290 Henderson?

23 MR. SIMPSON: No. I believe that's an
24 error.

25 MR. KRISMER: That's an error?

1 MR. SIMPSON: Correct.

2 MR. KRISMER: What is it? What should
3 it be?

4 MR. SIMPSON: It depends on the
5 criteria you want to apply to it. If you
6 want to include the 7,600 square feet of
7 unheated warehouse or if you find that, at
8 the time of sale, it shouldn't be included,
9 then the value would be less.

10 MR. KRISMER: What -- what are we
11 looking at here, Mr. Simpson? Please explain
12 to me and to the board what net operating
13 income you're looking at for those two sales
14 on 290 Henderson.

15 MR. SIMPSON: That number based upon
16 the process you used to calculate age and
17 unheated warehouse would be different, and so
18 that number accounts for unheated warehouse,
19 but I believe it misses the age adjustment,
20 so that number is just incorrect.

21 MR. KRISMER: So the 18(1)(b)(c) is
22 incorrect; is that right?

23 MR. SIMPSON: Correct.

24 MR. KRISMER: So that analysis you
25 completed on that page or that line is

1 incorrect; is that right?

2 MR. SIMPSON: On that line, yes.

3 MR. KRISMER: For that analysis? That
4 whole thing would be incorrect?

5 MR. SIMPSON: Yes.

6 MR. KRISMER: The next table, I see the
7 same number. Would that be incorrect then as
8 well?

9 MR. SIMPSON: Yes, for the following
10 tables. Thank you.

11 MR. KRISMER: And then the last table,
12 I noticed that you're suggesting applying a
13 10.72 percent cap rate to 290 Henderson, but
14 you'd agree that it's to fall into the less
15 than 20,000 square foot analysis, so would it
16 not be appropriate to apply a cap rate of
17 6.77 in that analysis?

18 MR. SIMPSON: If you say so, yes.

19 MR. KRISMER: Well, I'm not saying so.
20 I'm asking if you'd agree with that.

21 MR. SIMPSON: Sure. Yes.

22 MR. KRISMER: So that table at the
23 bottom, number 1, it has the wrong net
24 operating income for both 290 Hendersons.
25 The applied cap rate for both 290 Hendersons

1 is incorrect; is that correct?

2 MR. SIMPSON: Correct. Like --

3 MR. KRISMER: And if I were to walk
4 through that analysis and calculate the
5 median assessment to sales ratio using proper
6 data, would you disagree with me if I were to
7 suggest that your median assessment to sales
8 ratio would be 1.25 or 25 percent beyond one;
9 would you agree with me?

10 MR. SIMPSON: I'd have to run the
11 numbers.

12 MR. KRISMER: But you wouldn't disagree
13 that the assessments go -- would go way up
14 for both 290 Henderson sales, and their
15 assessment to sales ratios would then exceed
16 one; you'd agree with that statement? A
17 lower cap rate means a higher value; would
18 that be right?

19 MR. SIMPSON: The ASR, you're correct.
20 The sale analysis of 290 Henderson Drive
21 would change. The assessment property or the
22 property being assessed would still be
23 applied the current 9.43 percent cap rate.

24 MR. KRISMER: But I'm looking at your
25 assessment sales ratio, not the current

1 assessment of the property, but your
2 analysis -- of your analysis of how well it
3 would perform if done correctly. This is
4 what you're trying to show?

5 MR. SIMPSON: Sorry, can you rephrase
6 the question?

7 MR. KRISMER: Are you not trying to
8 show the board that based upon your analysis
9 of the sales, that the assessment to sales
10 ratio, using your analysis, is better than
11 the city's analysis; is that what you're
12 trying to show?

13 MR. SIMPSON: Well, I'm not sure how
14 either analysis is correct, considering data
15 from the city and from myself seems to be in
16 error.

17 MR. KRISMER: But you would agree that
18 if you applied a 6.77 percent cap rate to the
19 two sales of 290 Henderson -- because that's
20 the group they would belong in -- that the
21 calculated assessment on your side would be
22 much higher; you'd agree with that?

23 MR. SIMPSON: Not much higher, no.

24 MR. KRISMER: Not much higher?

25 MR. SIMPSON: Not much higher.

1 MR. KRISMER: So if I take the --
2 MR. SIMPSON: For the ASR, not much
3 higher.
4 MR. KRISMER: Okay. Let's just try one
5 here. Let's take the 18(1)(b)(c) and divide that
6 by --
7 MR. SIMPSON: Well, that number's in
8 error. I don't see why we would use that
9 number.
10 MR. KRISMER: Let's use one of the top
11 ones.
12 MR. SIMPSON: Yeah.
13 MR. KRISMER: 18(1)(b)(c) then. Let's use
14 that one.
15 MR. SIMPSON: Well, that number's in
16 error too, but okay.
17 MR. KRISMER: Divide that by .0677.
18 That would change the assessment on your line
19 from 18(1) -- or, sorry, 18(1)(b)(c) to 18(1)
20 18(1)(b)(c) (b)(c) .
21 MR. SIMPSON: I --
22 MR. KRISMER: It almost doubles the
23 value.
24 MR. SIMPSON: -- I suppose that 6.77
25 is also incorrect with 1205 East Pettigrew

1 Avenue not being --

2 MR. KRISMER: Do you have that under
3 appeal?

4 MR. SIMPSON: Well, no, but if we're
5 looking at the correct, you know --

6 MR. KRISMER: And where --

7 MR. SIMPSON: -- way to do this.

8 MR. KRISMER: -- where is the evidence
9 to support your allegation that 6.77 is in
10 error now? Where is that? Where is it?

11 MR. SIMPSON: Where is it in the
12 evidence?

13 MR. KRISMER: Where is it in evidence?
14 Where is it in your notice of appeals? Where
15 do you have the allegation that 6.77 is
16 incorrect, and what does it matter?

17 MR. SIMPSON: In regards to trying to
18 determine this analysis and going through the
19 calculations at this point in time, I -- it
20 seems to be irrelevant.

21 MR. KRISMER: I have no further
22 questions, Madam Chair.

23 MR. SIMPSON: Thank you.

24 CHAIRPERSON: Are you ready to proceed
25 with your argument, Mr. Krismer?

1 MR. KRISMER: We are, Madam Chair.

2 CHAIRPERSON: Then do so.

3 MR. KRISMER: Thank you, Madam Chair.

4 You've received a written

5 submission from the city in regards to this

6 appeal, and as we have -- we have it broken

7 into two pieces; number 1, the argument,

8 which is the first part of the submission;

9 and number 2, the evidence.

10 I intend on calling on

11 Mr. Schultze as our witness for -- to

12 introduce the evidence side, but before I get

13 to that, I do have a couple of typographical

14 errors in my submission that I'd like to

15 clean up.

16 I'll try to explain the

17 page number for you, Madam Chair. In the

18 bottom right-hand corner will be a consistent

19 page number, P-20 or P-255, and we'll

20 reference those page numbers as it's

21 consistent through the entire document. It

22 flows through the entire one.

23 Under P-20, at the top of

24 paragraph 50, I quote, "As previously

25 identified in paragraph 84" (sic) -- that

1 should be corrected to 14.

2 CHAIRPERSON: Can you repeat that?

3 MR. KRISMER: On P-20, the top
4 paragraph of that page references paragraph
5 82 in the second sentence. That should be
6 corrected to 14.

7 CHAIRPERSON: Okay.

8 MR. KRISMER: On page P-22, in the
9 first full paragraph, paragraph 59, the last
10 sentence, it talks about -- it states: An
11 incorrect assessment on the roll for 2014 --
12 that should be 2013.

13 Then on page 24 or P-24,
14 this is a little bit more complicated.
15 Paragraph 68, starting off with "finally,"
16 what we need to do is scratch out "as noted
17 in paragraph 21." Just scratch that out
18 completely. Just those words, "as noted in
19 paragraph 21."

20 And it goes on to state:
21 The calculated obsolescence of minus 16
22 percent, that should be corrected to minus 18
23 percent.

24 And then it goes on to
25 state that the capitalization rates noted in

1 the left-most table -- that should be the
2 upper most table.

3 And the reference to
4 paragraph 29 should be paragraph 64.

5 And those would be the
6 corrections I would like to put forward,
7 Madam Chair.

8 CHAIRPERSON: Okay. We've made those,
9 and you can proceed.

10 MR. KRISMER: Thank you, Madam Chair.
11 Included in Mr. Schultze's portion of the
12 document is a CV of his setting out his
13 education, his experience, and the like. And
14 the purpose of that is to show the board that
15 Mr. Schultze is an expert. I'd like the
16 board to recognize him as an expert in
17 assessment, as today we've heard -- over the
18 last day and a half a number of opinions
19 being offered, those of a non-expert. What
20 you need to hear are opinions of an expert.

21 So we'd like Mr. Schultze
22 recognized by this board as an expert in
23 assessment, and then we'll move on for his
24 testimony.

25 CHAIRPERSON: Mr. Simpson, do you have

1 a question, or do you accept Mr. Schultze?

2 MR. SIMPSON: No objection --

3 CHAIRPERSON: No objection.

4 MR. SIMPSON: -- Madam Chair.

5 CHAIRPERSON: All right. Mr. Schultze

6 has been accepted many times by this board as

7 an expert, and we can just proceed assuming

8 him an expert.

9 MR. KRISMER: And that --

10 CHAIRPERSON: If you're okay with that.

11 MR. KRISMER: Yeah, I'm fine with that

12 Madam Chair. And I assume you'll either want

13 him sworn in or affirmed then, I guess.

14 CHAIRPERSON: Okay. We can -- okay.

15 We -- you want him affirmed?

16 MR. SCHULTZE: Affirm, please.

17 CHAIRPERSON: Okay. Linda?

18 MS. PAIDEL: You want me to do it?

19 CHAIRPERSON: Yes, please.

20 MS. PAIDEL: Mr. Schultze, you are

21 standing. Please state your name.

22 MR. SCHULTZE: Robert Schultze.

23 **ROBERT SCHULTZE, Affirmed, Examined by Mr. Krismer**

24 MR. KRISMER: Thank you, Madam Chair.

25 With that, I'll just get Mr. Schultze to walk

1 the board through the process that we took to
2 determine the assessment of this property, as
3 well as our assessment model, and some of the
4 testing that we have completed as a result of
5 this appeal being initiated.

6 MR. SCHULTZE: Thank you, Madam Chair.

7 If I could turn you to our evidence packet.

8 It starts with the P numbering, P-267.

9 CHAIRPERSON: 267, okay.

10 MR. SCHULTZE: To start off with, at
11 paragraph 68 on that page, basically this --
12 the issues before you today, there are
13 essentially four issues, the first one is the
14 missing mezzanine area of 1135-8th Avenue;
15 the second one is the unheated warehouse
16 space of 144 Henderson Drive that the
17 assessor may have missed; the third issue is
18 the proper calculation of the effective age
19 of 144 Henderson; and then the final issue is
20 the inclusion of a sale at 1500-5th Avenue in
21 the large warehouse analysis, should it be
22 included or not?

23 If I could turn you now
24 to the next page, very quickly on a few of
25 these. The first issue on 1135-8th Avenue,

1 it was alleged that the cap rate produced by
2 the sale is not correct since the assessor
3 had not included the office mezzanine space
4 in it.

5 Paragraph 72 on that page
6 shows a table as to how the assessor had
7 calculated it. You will notice that in the
8 first two lines in the left column, where it
9 says main floor, main floor, the assessor had
10 treated all of this space as an enclosed
11 space, no mezzanine space.

12 In the following
13 paragraph on the next page, P-269, paragraph
14 73 basically shows that we request
15 information on an annual basis.

16 Paragraph 74, we note
17 that the assessor had received information as
18 of the base date for the January 1st, 2011 or
19 from the 2010 year showing us that all the
20 information was on the main floor.

21 Well, we went back just a
22 little bit, 2008. We did find a rent roll
23 sent to us by the owner that did have that
24 space split up. So that is where the error
25 was. The '10 -- 2010 rent roll sent to us

1 was incorrect.

2 So correcting that space,
3 in paragraph 75, it shows all the sizes of
4 the lease locations in that building. We
5 have them all noted on the main floor, and
6 paragraph 76 corrects that. We note
7 three-quarters of the way down we have 3,050
8 square feet on the mezzanine level now.

9 So correcting that,
10 please go to the next page. That would be
11 page 270, two, seven, zero. We now have
12 corrected the main floor space to a certain
13 amount and the mezzanine space of 3,050
14 square feet and then different rent rates
15 apply to those. That results in different
16 net income and a different cap rate
17 calculated from that sale.

18 Now, the effect of that
19 now lower cap rate is shown in paragraph 78,
20 and essentially there is no change to the
21 models applied a cap rate of 9.43 percent at
22 this time because this particular sale notes
23 the highest cap rate. It doesn't change the
24 median. So we get into an error on that
25 particular issue.

1 The second issue, that's
2 the sale of 144 Henderson Drive. That starts
3 at paragraph 79 on the same page. And it's
4 alleged that the cap rate produced by this
5 sale is incorrect because the assessor had
6 not identified 4,000 square feet of unheated
7 warehouse space. And that's a correct
8 allegation. The assessor did not do that.

9 Turning a few pages
10 forward to page P-272, paragraph 80, this
11 shows how the assessor had originally
12 calculated it, all heated space, nothing
13 noted for unheated space.

14 In paragraph 81, we
15 correct this. We now go from 66,446 square
16 feet in the main space -- or of heated space,
17 I'm sorry, to 62,446 and then adding on 4,000
18 square feet of unheated space. And, again,
19 different rental rates are applied, different
20 net income is attained, and a different cap
21 rate is calculated as a result. The cap rate
22 now drops from 9.43 percent to 9 .15 percent
23 as a result of this correction.

24 In paragraph 82, this
25 shows a result of this correction, and in

1 this instance, this does reflect the median
2 cap rate. The median cap rate does drop from
3 943 to 915, which will affect the assessments
4 calculated from this model at this point
5 because the median is now different.

6 Again, the assessor has
7 an admitted error on this particular issue
8 and provided the correction.

9 Turning now to page
10 P-273, and in paragraph 83, we're noting that
11 the issue here is that due to the additions
12 and renovations to 144 Henderson Drive, that
13 the effective year built of 1988 is incorrect
14 and that it should be something newer than
15 1990, according to the appellant's notice of
16 appeal.

17 In paragraph 84, below,
18 you see all of the changes that have occurred
19 to the property starting from 1977 all the
20 way through 2003, additions and renovations
21 to the property.

22 Turning to the next page,
23 page P-274, in paragraph 85, we note -- it
24 just says the appellant had -- that the
25 market value assessment in the Saskatchewan

1 handbook provides a couple of methods for
2 determining effective age. And we have that
3 particular page from the handbook noted in
4 appendix G for your reference.

5 And now the two common
6 methods to determine an effective age of a
7 property where there have been multiple
8 construction or additions over time are to
9 either weight those year builds using either
10 size or value or RCN, the replacement cost
11 new.

12 So on the following page,
13 we have a number of charts, and that's page
14 P-275. The first chart, again, replicates
15 the years of the changes and additions to
16 this particular property, and then we go
17 through some calculations. The first one is
18 the area as a percentage of the year built
19 resulting in an effective age at the bottom
20 of 1989 -- or effective year built, I'm
21 sorry. And then the next set of columns are
22 percentage of the replacement cost new or RCN
23 resulting in an effective year built
24 calculation of 1988 at the bottom. We did it
25 both ways. In both scenarios, the effective

1 year built does not reach the 1990 mark.

2 Now, it is typically --
3 of the two methods, weighting by floor area
4 or weighting by RCN, weighting by RCN is
5 considered to be the most accurate method to
6 use.

7 We went a little further.
8 On the next several paragraphs, paragraph 87
9 and paragraph 88, we looked at another way to
10 perform this calculation. The first
11 calculations use all of the structures on the
12 property, including the detached unheated
13 warehouse and the mezzanine space.

14 In paragraph 87, we
15 remove that standalone storage warehouse
16 because it really doesn't affect the age of
17 the main plant. It's entirely detached from
18 it. It's just another building sitting on
19 the site.

20 Going through the
21 weighting of the area and the RCN
22 calculations, both come to the same effective
23 year built of 1988.

24 And then in paragraph 88
25 on page P-276, we also remove the mezzanine

1 space along with the warehouse space. The
2 mezzanine space essentially is space that's
3 inside the structure of a building. One way
4 to look at it, you're going to have very,
5 very nice brand new mezzanine space, but if
6 you're in an older building and the roof and
7 the walls and foundation of the floor is all
8 crumbling around you and fall down, where's
9 the value in that mezzanine space? It
10 doesn't matter to the effective age of that
11 property.

12 Going through those
13 calculations, again, come up with 1988 on
14 both sets of calculations.

15 So whether we look at the
16 building -- or, sorry, the entire property,
17 including the mezzanine space, including the
18 warehouse space or not, we do not reach an
19 effective age of 1990 -- or an effective year
20 built, I'm sorry, of 1990 on this property.
21 We have five calculations of 1988 and one
22 calculation of 1989.

23 Also, additional evidence
24 to add which was not in the submission, we
25 ran a sort of all of our warehouse properties

1 in the city. We have 514 total accounts of
2 warehouse properties. 24 of these accounts
3 have an effective age. Of those 24, 13
4 properties, we have what's coded 1800, and
5 that's our code for we don't know what the
6 age of this building is, we cannot find any
7 permits on it. So 13 of them, by necessity,
8 we had to place an effective age on.

9 The remaining 11 accounts
10 or 2 percent of all of our warehouse
11 properties have an effective age that's
12 different from the main age of the building.
13 And in all instances, we calculated that
14 effective age using the same weighted method,
15 using the RCN method.

16 The next issue, the third
17 issue, deals with the two sales of 290
18 Henderson Drive.

19 Now, as Mr. Krismer had
20 noted earlier, whether or not these sales are
21 retained in the analysis or removed from the
22 analysis, these two sales do not effect the
23 capitalization rate applied to the properties
24 that are under appeal today. And the entire
25 point of the appellant's issue with raising

1 the sales of 290 Henderson Drive is to have
2 these two sales of this property removed from
3 this atypical analysis. They are two of the
4 three sales included in the analysis to
5 determine obsolescence for the atypical,
6 unheated -- unheated warehouse buildings.

7 Now, the reason for this
8 is noted in paragraph 107, and that will be
9 on page P-285. And reading from that
10 paragraph, The appellant -- the appellant's
11 opinion is that the two sales of 290
12 Henderson Drive should be removed from the
13 assessor's obsolescence analysis, leaving
14 just a single sale of an atypical property,
15 and that's the one addressed at 1500-5th
16 Avenue. And in the appellant's opinion,
17 since this is the only remaining sale of an
18 atypical and predominantly unheated property,
19 this latter sale should be returned to the
20 large warehouse analysis to determine the
21 appropriate cap rate for typical warehouse
22 properties.

23 That essentially is why
24 those two issues are rolled together.

25 Now, when you skip

1 through the next several paragraphs,
2 paragraphs 108 through 120, basically it
3 describes how the analysis came about, so you
4 get down to the crux of this particular
5 issue.

6 So we are now on page
7 2 -- I'm sorry, P-285.

8 CHAIRPERSON: Is it 288 that you're at
9 now?

10 MR. SCHULTZE: Sorry P-285, 285.

11 CHAIRPERSON: Okay.

12 MR. SCHULTZE: In paragraph 123, we've
13 noted all of the warehouses valued in the
14 warehouse income approach. There's 519
15 properties. And then we've noted how many
16 are -- had varying degrees of heated or
17 unheated space. And it shows that 95 percent
18 of all warehouse properties valued by this
19 model has 75 percent or more of their space
20 heated. Only 5 percent have less than 25
21 percent of their space heated.

22 There's your typical
23 group of properties, the 95 percent group,
24 and the atypical properties out there in the
25 marketplace, the 5 percent group.

1 And even going a little
2 further, properties that had 80 percent or
3 more unheated space, that represents only 2
4 percent of the population. 1500-5th Avenue
5 is one of those 2 percent, one of those
6 atypical properties. It actually has
7 approximately 14 percent heated space, 86
8 percent unheated space.

9 Now, paragraph 125
10 narrows that down just a little bit more.
11 The statistics in the following chart show
12 the warehouses that are greater than or equal
13 to 25,000 square feet, in other words, the
14 large warehouses. And instead of a 95/5
15 percent split, is it becomes a 94/6 percent
16 split, essentially the same thing.

17 So 94 percent of the
18 properties have 75 percent or more of their
19 space heated. That is typical in our
20 marketplace. 6 percent have less than 25
21 percent heated -- unheated, 2 percent, sorry,
22 was heated. Less than 25 percent of their
23 space heated. 2 percent have less than 20
24 percent of their space heated. And, again,
25 1500-5th Avenue falls into that 2 percent

1 category.

2 So the appellant is
3 requesting that the sale of 1500-5th Avenue,
4 now being in -- based on their analysis, the
5 only remaining sale to indicate an
6 obsolescence and by mass appraisal
7 procedures, we cannot use just one sale to
8 determine something. We then have to either
9 place it somewhere else or discard it.

10 The appellant wants that
11 sale, one of the 2 percent of the atypical
12 properties in the -- in the city, to now help
13 value the 96 -- actually even higher -- the
14 96 percent of the typical properties in the
15 city.

16 Paragraph 126 on page
17 P-290, we've noted the IAAO's publication --
18 that's the International Association of
19 Assessing Officers -- from their book,
20 Fundamentals of Mass Appraisal, and we've
21 taken quotes from a few pages there. We do
22 have those noted in appendix I for your
23 reference.

24 Now, these discuss a
25 standard appraisal practice and supports the

1 idea of removing sales that are not
2 representative of the population when
3 establishing typical market conditions. We
4 are under the market valuation standard which
5 requires us, by law, to reflect typical
6 market conditions.

7 The very first quote from
8 page 75: "Some outliers are physically
9 dissimilar from most properties in their
10 stratum."

11 1500-5th Avenue, having
12 only 14 percent of its space heated, is very
13 physically dissimilar from the 95 percent of
14 the population that had more than 75 percent
15 of their space heated. That's atypical. It
16 should not be used to value typical.

17 The second quote also
18 from page 75: "Including outliers in the
19 sample of sales used in mass appraisal
20 modeling can distort the results, especially
21 when the sample is small."

22 That would be the case
23 here.

24 The next quote from the
25 same page: "It is desirable to exclude

1 outliers from analysis when they provide
2 misleading indicators."

3 That is the case here.

4 The quote from page 266:

5 "It can also be prudent to flag or remove
6 properties with extreme or unrepresentative
7 data."

8 14 percent heated space
9 versus 75 percent plus, that is
10 unrepresentative data.

11 That is all the evidence
12 I am presenting today, Madam Chair. The
13 appendices you have, you can review at
14 your -- at your leisure. Thank you.

15 CHAIRPERSON: Mr. Krismer, do you have
16 questions for Mr. Schultze?

17 MR. KRISMER: I just have a couple of
18 questions for Mr. Schultze relating to this.

19 When you see renovations
20 completed on a property, let's assume they
21 put down new flooring, maybe moved an
22 interior partition wall, maybe changed out
23 the heating system, is that reflected -- or
24 is it meant to be reflected in the effective
25 age of the property or the condition rating

1 of the property for assessment purposes?

2 MR. SCHULTZE: There are two categories
3 of improvements made to a property, and they
4 basically get broken down between long-lived
5 items, which are the items that are the same
6 age as the -- as a house or meant to last for
7 the expected lifespan of that particular
8 property, foundation, concrete floors,
9 framing, mechanical systems for the most part
10 to a certain point. Then there's short-lived
11 items, which is the flooring, carpeting,
12 paint if you're in a house; in a commercial
13 building, it can be the same thing, the
14 interior finishing, which usually has a five-
15 to 15-year lifespan; even roofing, which can
16 have a 10- to 20-year life span.

17 So if it's a change made
18 to one of the major structural components of
19 long-lived items, that can affect effective
20 age. If it's a change made to one of the
21 short-lived items or a number of them, it
22 generally affects the condition.

23 Now, if it's wholesale
24 change throughout the entire property, it may
25 have an effect on effective age, but

1 typically, short-lived items affect
2 condition. Long-lived items affect effective
3 age.

4 MR. KRISMER: So the case of 144
5 Henderson Drive, when they put those
6 additions on the property, they were now
7 playing with structure and foundations, and
8 those additions would impact the effective
9 age; would that be correct?

10 MR. SCHULTZE: I agree.

11 MR. KRISMER: When you're dealing with
12 adding an egress hallway or re-doing the
13 lunchroom or, for that matter, adding a
14 mezzanine space, if, in fact, it was added,
15 would that change the effective age of the
16 structure?

17 MR. SCHULTZE: Typically not.

18 MR. KRISMER: And the reason it
19 wouldn't change the effective age of the
20 structure is that foundations or structure
21 were not updated, and the structure will fall
22 down before the mezzanine, and, therefore,
23 the mezzanine has no impact on the overall
24 age of the property?

25 MR. SCHULTZE: That's a good

1 description, yes.

2 MR. KRISMER: So dealing with the
3 observed condition method as set forward in
4 the guide, it talks about building sections
5 in that portion. Is a mezzanine a building,
6 or is it a component of a building?

7 MR. SCHULTZE: I would consider that a
8 component of a building, not a standalone
9 building on its own. It cannot exist without
10 the original building around it or a building
11 around it.

12 MR. KRISMER: So it relies upon the
13 finished area -- or the frame and the
14 foundation of the existing structure to hold
15 itself up?

16 MR. SCHULTZE: Correct.

17 MR. KRISMER: So in the guide when
18 they're talking about that example of Sask
19 Manufacturing, they deal solely with the
20 structures or the building themselves and the
21 various year built of those, but they don't
22 suggest to get into the inside of the
23 building to make adjustments.

24 MR. SCHULTZE: That would be my
25 interpretation.

1 MR. KRISMER: So staying with the idea
2 of renovations and the impact of renovations
3 on potentially the age of the property or
4 changing the assessor's methodology to
5 calculate an effective age or an effective
6 year built, if you were to -- in residential
7 construction, let's say we have a 1975-built
8 house and you add a basement finish to that
9 house, does that change the fact that that's
10 a -- still a 1975-built home?

11 MR. SCHULTZE: No, it does not.

12 MR. KRISMER: If you have a 1975-built
13 house and you add a brand-new detached
14 garage, does that change the age of the
15 house?

16 MR. SCHULTZE: Not the house, no.

17 MR. KRISMER: If you change -- have a
18 1975-built house and you replace the roof,
19 does that change the age of the house?

20 MR. SCHULTZE: That would, in my view,
21 change its condition rating on the house. It
22 most likely would not affect the effective
23 age of the house.

24 MR. KRISMER: If you had a 1975-built
25 house and you added on an addition to the

1 house, does that change the effective age of
2 the entire house?

3 MR. SCHULTZE: Of the entire house, at
4 that point, yes.

5 MR. KRISMER: So that's when you would
6 entertain the effective age calculation?

7 MR. SCHULTZE: That is correct.

8 MR. KRISMER: So if you have an
9 addition, a substantial addition, I mean, not
10 just a little porch. Now, dealing with the
11 sales of properties and dealing with
12 atypical, when you're talking about
13 1500-5th -- I'm going to stay with
14 residential. If you had a sale of a house
15 that was unfinished, let's say the person
16 stopped construction on it and left it in a
17 completely unfinished state, maybe no
18 drywall, no insulation and the like, would
19 you use a sale of an unfinished house to
20 calculate an assessment for a typically
21 finished house?

22 MR. SCHULTZE: No, I would not.

23 MR. KRISMER: And that wouldn't meet
24 the market valuation standard; would that be
25 correct?

1 MR. SCHULTZE: Yes. The unfinished
2 property would be considered an atypical
3 indicator. We are to reflect typical market
4 conditions under the market valuation
5 standard. The one should not be used to
6 effect the other.

7 MR. KRISMER: So if you had solely a
8 single sale of an unfinished house and that
9 was the only sale you had, are you required
10 by any statute to include that sale to
11 establish the value of a typical property?

12 MR. SCHULTZE: We are required to
13 consider all sales. The assessment
14 department receives, I think, biweekly, twice
15 a week, all transfers that occurred at land
16 titles office. We then go through those
17 sales, determine which ones -- and we have to
18 consider them all. Are they valid sales or
19 not? If they're just simply name changes
20 or -- or some other thing like that, those
21 are not valid sales. We've considered them.
22 We've discarded them.

23 In this particular
24 situation that we've come across, it's a
25 valid arm's length sale between unrelated

1 parties, but it is an atypical indicator,
2 such as 1500-5th, which has 14 percent of its
3 space heated, when we are trying to reflect
4 the typical market conditions of properties
5 that are at least 75 percent heated.

6 We are required to
7 analyze and consider the sale, but we are not
8 required to use it. That is our discretion
9 based on our analysis of that sale to
10 determine its use in the assessment process.

11 MR. KRISMER: So, again, that would be
12 because you don't want to use the sale of an
13 atypical property to value a typical
14 property?

15 MR. SCHULTZE: That is correct.

16 MR. KRISMER: Now, recognizing our
17 climate in Saskatchewan, does it surprise you
18 that 95 percent of our warehouses have the
19 majority of their space heated?

20 MR. SCHULTZE: Not at all.

21 MR. KRISMER: And would that indicate
22 that the demand for unheated warehouses is
23 very minimal?

24 MR. SCHULTZE: The market typically
25 reflects what the demand is out there. 2

1 percent of properties that are 20 percent
2 heated or less, now, the market's saying we
3 want -- we want heated properties.

4 MR. KRISMER: Which would make sense in
5 our climate.

6 Looking at the analysis
7 and the allegation was that if you capture
8 the variation through the income side of a
9 model, that you don't need to then capture it
10 again on the sale. Would you agree that it's
11 quite often that properties -- that an
12 adjustment through the income, the actual
13 income stream, most likely is not reflected
14 directly one to one, if you wish, in the sale
15 of the property?

16 MR. SCHULTZE: That is a fair statement,
17 yes.

18 MR. KRISMER: So the income is the
19 relationship between what someone's willing
20 to rent the property for, dollar for
21 dollar --

22 MR. SCHULTZE: Yes.

23 MR. KRISMER: -- and the sale price is
24 representative of the purchaser vendors, and
25 in that purchase is the purchaser's risk of

1 taking on a building that has limited
2 desirability in the market, so you would
3 expect a higher capitalization rate in that
4 sense?

5 MR. SCHULTZE: Yes. The capitalization
6 rate reflects a number of things, two basic
7 things are the return on investment, what an
8 owner want to make off of that property, and
9 the return of the investment or recapture, as
10 we call it. That's because the assets or the
11 structures or buildings on site are
12 depreciating, and you have to recapture this
13 over time because they will devalue over
14 time.

15 Now, in the return on
16 investment, you're looking at -- what's the
17 safe rate out there to get from other, say,
18 saving accounts or saving bonds or whatever,
19 I want to get more of them. What kind of
20 return do I want to get because I now have a
21 risk of managing the property, I have a risk
22 of tenants leaving, so there's a risk of
23 whether the revenue stream is going to stick
24 around. There's also the liquidity aspect of
25 a property. If I do need to sell it, cash is

1 liquid. Properties are not that liquid. You
2 can't tell them that quickly.

3 Now, if you have a
4 problematic property or an atypical property,
5 it could take longer to sell that property,
6 so when it's less liquid an asset than a
7 typical property, and that usually means the
8 return is expected to be higher. That's
9 means your cap rate will be higher on an
10 atypical property versus a typical property.
11 That will not be solely reflected in the
12 rents.

13 MR. KRISMER: So in the case of
14 1500-5th Avenue -- and for the board's
15 purpose, if you're familiar with it, that's
16 what would be known as The Shake Shop, The
17 Shake Shop building, correct?

18 CHAIRPERSON: Okay.

19 MR. SCHULTZE: That is correct.

20 MR. KRISMER: And in that building,
21 with 86 percent of it unfinished, there would
22 be few tenants that would look for a building
23 of that size, number 1; and, number 2, that
24 much unheated space?

25 MR. SCHULTZE: I believe the market does

1 reflect that, yes.

2 MR. KRISMER: Those are all my
3 questions, Mr. Schultze. And I'm sure he
4 would gladly answer any questions that the
5 board may have or that the appellant may have
6 of him.

7 CHAIRPERSON: Do you have a great many
8 questions that we can do in 10 or 15 minutes,
9 or is it going to be longer? And then I
10 would consider a lunch break and come back
11 and start your cross-exam at that time.

12 MR. SIMPSON: I think we're all fairly
13 hungry, so maybe a lunch break. It will take
14 my roughly an hour to ask questions, so
15 perhaps after lunch would be best.

16 CHAIRPERSON: Okay. We'll break for
17 lunch. And because we're breaking early,
18 we'll be back at 1:00. Does that work for
19 everyone?

20 MR. SIMPSON: Thank you, Madam Chair.

21 MR. KRISMER: We can be earlier if you
22 wish.

23 CHAIRPERSON: One's good. I'll see you
24 all then.

25 *(Recessed at 11:38 a.m.)*

1 (Reconvened at 1:00 p.m.)

2 CHAIRPERSON: Are we ready to proceed
3 with Mr. Simpson's cross of Mr. Schultze?

4 MR. SIMPSON: Yes, Madam Chair.

5 CHAIRPERSON: Please proceed then.

6 MR. SIMPSON: CROSS-EXAMINATION:

7 MR. SIMPSON: I'm going to
8 (INDISCERNIBLE) a couple of these questions.
9 Just bear with me real quick here.

10 When was the unheated
11 warehouse, 144 Henderson Drive, built; do you
12 know?

13 MR. SCHULTZE: I believe according to
14 our records, the first permit came out in
15 1977.

16 MR. SIMPSON: In -- sorry. In regards
17 to the 4,000 square foot unheated warehouse.

18 CHAIRPERSON: Could you repeat the
19 question, Mr. Simpson?

20 MR. SIMPSON: I was just curious if
21 Mr. Schultze knew when the 4,000 square foot
22 unheated warehouse at 144 Henderson Drive was
23 built.

24 MR. SCHULTZE: I found it. I believe
25 the permit was taken out in 2003.

1 MR. SIMPSON: Thank you. Would it then
2 receive an age adjustment?

3 MR. SCHULTZE: I'll take a look. I
4 don't have that information at hand. I would
5 expect the standalone warehouse on that small
6 stature of a property, I think it goes with
7 the effective age of the property, so likely
8 not, but I'm not positive.

9 MR. SIMPSON: So you're saying it would
10 be the aggregate of the property for
11 effective age then -- or belonged to the --
12 the larger building as far as effective age?

13 MR. SCHULTZE: I believe so.

14 MR. SIMPSON: Okay. Thank you. In
15 your testimony you stated that mezzanine --
16 or mezzanine space doesn't necessarily affect
17 the effective age of the property, correct?

18 MR. SCHULTZE: Correct.

19 MR. SIMPSON: Okay. I was informed by
20 the owner that there was a site inspection
21 done of the property just within the last few
22 months. Were you present at the site
23 inspection?

24 MR. SCHULTZE: I was not.

25 MR. SIMPSON: Okay. Thank you. Were

1 you able to discuss with the members of your
2 staff what the findings were of that site
3 review?

4 MR. SCHULTZE: I saw the report that
5 came out of the inspection.

6 MR. SIMPSON: And that would be the
7 report listed in appendix J of your
8 submission?

9 MR. SCHULTZE: It's in here somewhere,
10 and I assume it's J, yeah.

11 MR. SIMPSON: Sure. Perfect. Thank
12 you. I'm assuming then on page 341 of the
13 assessor's submission that it -- that it's
14 listing 1977 for the main building at the
15 general description near the top and 1978
16 in -- when you're discussing the interior in
17 the third sentence. One of those was just a
18 typo?

19 MR. SCHULTZE: Are you talking about the
20 page 341, first paragraph?

21 MR. SIMPSON: First paragraph --

22 MR. SCHULTZE: Steel frame industrial
23 heavy manufacturing building?

24 MR. SIMPSON: Yeah, yeah.

25 MR. SCHULTZE: It says, With main

1 building constructed in 1977 and support
2 structures built in various years from 1987
3 to 2001.

4 MR. SIMPSON: Right. Perfect. Thank
5 you. And then when you go down to where it
6 says interior for a heading, about halfway
7 down the page.

8 MR. SCHULTZE: Got you.

9 MR. SIMPSON: On the third sentence
10 there, it lists the original building as
11 1978, and I was just assuming that one of
12 those was a typo.

13 MR. SCHULTZE: Yes. That should be -- I
14 believe when the permit was taken out, it was
15 1977.

16 MR. SIMPSON: Okay. Thank you. Within
17 the interior description, I don't see any
18 mention of mezzanine space. Do you know if
19 it's somewhere else in the report?

20 MR. SCHULTZE: It does not appear to be
21 mentioned in the narrative.

22 MR. SIMPSON: Thank you. I notice on
23 page 342 of your submission, there's roughly
24 five pictures, four of which are interior.
25 Do you know if there were more pictures taken

1 at the site inspection or just these four?

2 MR. SCHULTZE: I don't have an answer to
3 that question.

4 MR. SIMPSON: Okay. Thank you. When
5 renovating or upgrading or making additions
6 to a property, that generally affects the
7 value of a property typically, correct?

8 MR. SCHULTZE: That depends on what
9 changes have been made. Are they in keeping
10 with what you typically expect for the
11 property, or are they kind of strange or
12 unusual? It all depends on, again, what part
13 of the property or what have you. That's a
14 difficult question to answer without
15 specifics.

16 MR. SIMPSON: Right. Thank you. In
17 regards to what would constitute a change in
18 value, on page 252 of the appellant's
19 submission, appendix 14, [18\(1\)\(b\)\(c\)](#)

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1 MR. SCHULTZE: First of all, you said --
2 first of all, you said page 252 of the
3 appellant's submission?

4 MR. SIMPSON: Yes.

5 MR. SCHULTZE: Okay. 18(1)(b)(c)

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8 MR. SIMPSON: 18(1)(b)

9 18(1)(b)

10 MR. SCHULTZE: Again, it depends on the
11 nature of the property and the extent -- the
12 extent of the other improvements on property.
13 It's difficulty to say without specifics. It
14 could have no change, a minor change, major
15 change.

16 MR. SIMPSON: Okay. Thank you. Are
17 you familiar with the definition of effective
18 year built found in the City of Regina's
19 assessment glossary?

20 MR. SCHULTZE: I haven't looked at it
21 recently, but I -- I'm familiar with it
22 generally.

23 MR. SIMPSON: Okay. My understanding
24 of the definition, the effective year of
25 construction of a structure -- the effective

1 year of construction of a structure, this is
2 used when major renovations have taken place
3 and parts of the building now contain new
4 material.

5 So that would --
6 something like that where new material gets
7 added to the property could effectively
8 change the effective year of the property,
9 correct?

10 MR. SCHULTZE: I'm sorry, I didn't
11 really catch most of that.

12 MR. SIMPSON: Sorry.

13 MR. SCHULTZE: Could I ask you -- a
14 little bit louder, a little slower?

15 MR. SIMPSON: Sorry. Yeah. No. I'm
16 probably mumbling a little here.

17 Is the definition for
18 effective year built found on the City of
19 Regina's assessment glossary page, the
20 effective year of construction of a
21 structure, this is used when major
22 renovations have taken place and parts of the
23 building now contain new material?

24 Would that, to you,
25 perhaps change the effective age of a

1 property that would just contain new
2 material?

3 MR. SCHULTZE: Again, it's difficult to
4 say without knowing the property in question.

5 MR. SIMPSON: Okay.

6 MR. SCHULTZE: And if it's a large major
7 property and a few minor things have -- well,
8 I guess it could have no effect whatsoever.

9 MR. SIMPSON: Okay. Thank you. Have
10 you provided any evidence to support the 1990
11 threshold for the \$1.25 per square feet age
12 adjustment? The list of properties in your
13 submission are --

14 MR. SCHULTZE: No.

15 MR. SIMPSON: Okay. Thank you. In
16 regards to 290 Henderson Drive, in 2010 for
17 both sales, what were the structures that
18 sold and how much building square footage had
19 sold, would you say?

20 MR. SCHULTZE: The two sales that
21 occurred -- the property that sold was a
22 large -- a large site -- the 20,000 square
23 foot heated warehouse building and a land
24 lease, a registered land lease, in effect
25 against the property. That was all that was

1 sold.

2 MR. SIMPSON: Okay. Thank you. So
3 being that the building area of that property
4 is less than 25,000 square feet, those sales
5 should be put into the 1970 newer, less than
6 25,000 square foot sales stratification?

7 MR. SCHULTZE: I would say no.

8 MR. SIMPSON: May I inquire as to why
9 you would say no?

10 MR. SCHULTZE: Sales that occurred
11 included a large site with a 20,000 square
12 foot warehouse building on it. In order to
13 have that sale properly reflect the cap
14 rate -- the economic cap rate for the smaller
15 buildings, we would have to remove the effect
16 of the land lease on that sale. We do not
17 have the data necessary to adjust that to
18 reflect typical capitalization rate, cap
19 rate, from that sale; therefore, it cannot be
20 used for that purpose.

21 MR. SIMPSON: Would you happen to know
22 when the 7,600 square foot unheated warehouse
23 at 290 Henderson Drive sold?

24 MR. SCHULTZE: It was sold as a
25 standalone structure, I think, at the end of

1 2013 roughly.

2 MR. SIMPSON: Thank you. Do you know
3 how much that standalone structure sold for
4 in 2013?

5 MR. SCHULTZE: The information we have,
6 I believe it's roughly \$64,000, thereabouts.

7 MR. SIMPSON: And correct me if I'm
8 wrong, the 22,000 square foot land, leasable
9 land, was being leased for \$6,500 annual
10 roughly?

11 MR. SCHULTZE: One moment. I'll just
12 look at the lease document.

13 MR. SIMPSON: Sure thing.

14 MR. SCHULTZE: According to the lease
15 agreement, \$6,500 per annum, plus GST.

16 MR. SIMPSON: Thank you very much. And
17 what -- for what period of time was that
18 lease agreement in place for?

19 MR. SCHULTZE: 18(1)(b)(c)

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21 MR. SIMPSON: Thank you. In the
22 assessor's submission, page 13, paragraph
23 27 -- could I get you to turn to that page,
24 please?

25 MR. SCHULTZE: Is that the argument

1 document or the evidence document?

2 MR. SIMPSON: Not -- it would be, I

3 guess, the -- the argument document.

4 MR. SCHULTZE: I did not speak to that

5 document this morning.

6 MR. SIMPSON: Okay. Thank you.

7 MR. FIELDGATE: Madam Chair, who would

8 answer that question then? That was in --

9 that was in their submission. We just need

10 some direction, Madam Chair.

11 CHAIRPERSON: We are only dealing with

12 the evidence that Mr. Schultze gave at this

13 time in his testimony. Once your cross of

14 Mr. Schultze is complete, then Mr. Krismer

15 will finish his presentation, and at that

16 time, you'll be able to question him on the

17 rest of the documents in the assessor's

18 submission.

19 MR. FIELDGATE: Thank you, Madam Chair.

20 MR. SIMPSON: Just one moment, Madam

21 Chair.

22 In your evidence document

23 on page 282, I believe you give a list of

24 bullet points regarding 290 Henderson Drive.

25 MR. SCHULTZE: May I have it? Sorry,

1 may I have it?

2 MR. SIMPSON: It looks like the
3 argument here is that 100 percent of the fee,
4 simple interest of the property, can be
5 determined; is that correct?

6 MR. SCHULTZE: Yes.

7 MR. SIMPSON: In doing so, there would
8 have been a value having to have been applied
9 to the unheated warehouse portion, if it were
10 to sell at 100 percent estate and fee simple.
11 I was just wondering if you had a value to
12 that property -- or to that structure.

13 MR. SCHULTZE: Actually, the 100 percent
14 fee simple estate that was able to be sold by
15 the owner included the land and the 20,000
16 square foot warehouse building. 18(1)(b)(c)

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6 MR. SIMPSON: Okay. Thank you. I
7 noticed in the model in your evidence
8 document, there is still 1205 East Pettigrew
9 Avenue. Is that an oversight?

10 MR. SCHULTZE: Where are you looking in
11 the document?

12 MR. SIMPSON: It would have been -- or
13 in the appendices, I'm sorry. That would
14 have been appendix F. Yes, appendix F and
15 page 318.

16 MR. SCHULTZE: I see it. And, sorry,
17 your question is?

18 MR. SIMPSON: Sorry. Would the
19 inclusion of 1205 East Pettigrew Avenue --
20 would that be an oversight?

21 MR. SCHULTZE: Not that I'm aware of.

22 MR. SIMPSON: Okay. Thank you. If I
23 could get you to scroll a couple pages ahead
24 over to 320. I noticed you have a net rent
25 by age groups analysis done there. Were all

1 these different groups tested against one
2 another?

3 MR. KRISMER: Again, Madam Chair,
4 Mr. Schultze didn't speak to that page. We
5 may have other witnesses that would speak to
6 the page that could answer this question for
7 Mr. Simpson.

8 MR. SIMPSON: Okay. That's fine.

9 CHAIRPERSON: Okay. So move on with
10 just questions for Mr. Schultze.

11 MR. SIMPSON: Yes, Madam Chair. I'll
12 continue with my questioning Mr. Schultze.
13 Thank you.

14 Madam Chair, I have a
15 question regarding the model. Should I
16 address that question to Mr. Schultze, or
17 should I wait until the questioning of Rob is
18 over and then ask it generally to the
19 assessor's side?

20 CHAIRPERSON: If it's in the evidence
21 document, you can ask it. If it's not in the
22 evidence document, then you'll have to save
23 your question for Mr. Krismer later.

24 MR. SIMPSON: Okay. Thank you, Madam
25 Chair.

1 MR. FIELDGATE: Is he going to call more
2 witnesses? I'm kind of getting confused
3 here, Madam Chair. Are they not done with
4 their case basically or -- what other
5 witnesses are they going to be calling?

6 CHAIRPERSON: Mr. Krismer, can you
7 answer that question?

8 MR. KRISMER: We called Mr. Schultze as
9 our first witness, and he presented a package
10 of evidence that we then would expect
11 cross-examination of Mr. Schultze at that
12 point in time. I do plan on calling more
13 witnesses, depending upon the extent that
14 I -- that I feel is required in this appeal,
15 Madam Chair.

16 MR. FIELDGATE: Thank you.

17 MR. SIMPSON: Just a moment, Madam
18 Chair. I had questions based upon the
19 appendices following the evidence, but since
20 Mr. Schultze didn't refer to those
21 appendices, I'll have to filter through my
22 questions to see which ones I can ask and
23 which ones I can't. Just a moment, please.

24 CHAIRPERSON: Okay. As quick as you
25 can, please.

1 MR. SIMPSON: Sorry for the wait, Madam
2 Chair.

3 Mr. Schultze, you spoke
4 to 1500-5th Avenue --

5 MR. SCHULTZE: I'm sorry, I didn't hear
6 you.

7 MR. SIMPSON: You speak to 1500-5th
8 Avenue, correct?

9 MR. SCHULTZE: Correct.

10 MR. SIMPSON: If 1500-5th Avenue is
11 deemed to be atypical, then were its income
12 and expense data used in the development of
13 the model rates?

14 MR. SCHULTZE: No.

15 MR. SIMPSON: Okay. Thank you.
16 Regarding 1500-5th Avenue and, I guess,
17 determining whether or not it could be
18 adjusted to make it typical or -- or not
19 adjusted and so on and so forth, IAAO uses
20 interquartile ranges. Do you find that to be
21 a good analysis?

22 MR. SCHULTZE: Well, I mean, I'm not up
23 on my stats in that particular area, so I
24 can't answer the question.

25 MR. SIMPSON: Okay. Thank you. During

1 your testimony, you discussed long-lived
2 items and short-lived items. I was just
3 curious. I might have missed it. What would
4 you consider roofing to be, a long-lived item
5 or a short-lived item?

6 MR. SCHULTZE: A long-lived item is
7 generally an item that lasts the same length
8 as the expected life of the structure itself,
9 so, say, a warehouse, it's expected to last
10 40 years, looking at the concrete, the
11 foundation, the flooring, the -- the general
12 skeletal frame structure of the building
13 itself, and even warehouses, the siding would
14 even be concluded to last that long, but
15 essentially something that lasts the same
16 length of time as the building is expected to
17 last.

18 MR. SIMPSON: So a 25- to 30-year roof
19 probably wouldn't represent that long item,
20 category?

21 MR. SCHULTZE: If the expected life of
22 the building is 25 or 30 years, that would be
23 correct. If it's a 50-year expected life,
24 then it kind of falls more to the short-lived
25 item section.

1 MR. SIMPSON: Right. That makes sense.

2 Thank you. Thank you very much, Rob, for
3 answering my questions.

4 CHAIRPERSON: That concludes your
5 cross-examination?

6 MR. SIMPSON: Regarding Mr. Schultze's
7 testimony, yes, ma'am.

8 CHAIRPERSON: Yes. Mr. Krismer, are
9 you ready to present the balance of your
10 case?

11 MR. KRISMER: We are, Madam Chair. The
12 next person I'd like to call would be Scott
13 Miller as one of our witnesses.

14 CHAIRPERSON: Just for clarification,
15 is it Scott Miller? Millar?

16 MR. MILLER: Yeah. It's M-I-L-L-E-R,
17 Miller.

18 MR. KRISMER: And my intent is to
19 get -- have Mr. Miller qualified as an
20 expert, expert in assessment and an expert in
21 statistics as it relates to assessment.

22 And I'm just going to ask
23 a few questions of Mr. Miller so you have a
24 full understanding of his education and his
25 background.

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4 MR. MILLER: I am.

5 MR. KRISMER: You've taken additional
6 training over the years dealing with 28(1)

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9 MR. MILLER: Yes.

10 MR. KRISMER: And through your role
11 with the city, you've trained many other
12 staff on the proper interpretation and
13 application of statistics and the use of the
14 software, SPSS; is that correct?

15 MR. MILLER: Yeah.

16 MR. KRISMER: And you've assisted other
17 jurisdictions in Saskatchewan, although being
18 employed with the City of Regina, you
19 actually did some work for other assessment
20 jurisdictions as it relates to modeling for
21 them as well; is that correct?

22 MR. MILLER: I did, yes.

23 MR. KRISMER: And you've appeared
24 before this board in the past as an expert,
25 have you not?

1 MR. MILLER: I have, yes.

2 MR. KRISMER: Madam Chair, I'd like to
3 have Mr. Miller qualified as an expert in the
4 fields that I've gone over earlier.

5 CHAIRPERSON: Do you have any questions
6 for Mr. Miller?

7 MR. SIMPSON: No objections, Madam
8 Chair.

9 CHAIRPERSON: Would you like to be
10 sworn or affirmed? Affirmed as a witness?

11 MR. MILLER: Sure.

12 MS. PAIDEL: Could you please stand?

13 MR. MILLER: Yes.

14 MS. PAIDEL: State your name, please.

15 MR. MILLER: Scott Miller.

16 **SCOTT MILLER, Affirmed, Examined by Mr. Krismer**

17 MR. KRISMER: Mr. Miller, I was looking
18 at the Pearson's correlation or correlation
19 analysis of the appellant in their submission
20 at page 173. And would you agree that the
21 correlation analysis at best, the only two
22 variables that are correlated to the
23 capitalization rate is net area and effective
24 age; would that be correct?

25 MR. MILLER: Correlated to what,

1 sorry?

2 MR. KRISMER: The -- the capitalization
3 rate -- down at the bottom row, the
4 capitalization rate.

5 MR. MILLER: In comparison to
6 everything else?

7 MR. KRISMER: Yes. Those are the only
8 two variables that have any correlation to
9 the cap rate of any degree of significance?

10 MR. MILLER: Yes.

11 MR. KRISMER: Okay. Now, turning your
12 attention to appendix F in the submission --

13 MR. MILLER: Yeah.

14 CHAIRPERSON: Are we now in your
15 submissions?

16 MR. KRISMER: That's in the -- the
17 evidence submission of the assessor's --

18 CHAIRPERSON: Thank you.

19 MR. KRISMER: -- appendix F.

20 The first part of
21 appendix F is just our current model that we
22 have for it. Behind the model is a series of
23 statistics that you ran to test the -- the --
24 I guess, the legitimacy of the issues being
25 raised. So the first one, if I can get you

1 to explain to the board -- it's dealing with
2 a series of box plots or -- or what appears
3 to be box plots. It's a graph with net area
4 on the left and year built group, number 2,
5 on the bottom.

6 Does the panel have that?

7 CHAIRPERSON: Page 320?

8 MR. MILLER: Yes.

9 MR. KRISMER: Yeah, page 320.

10 CHAIRPERSON: Thank you.

11 MR. KRISMER: So in there, you're
12 testing whether or not there's a significant
13 difference based upon age and rent; is that
14 correct?

15 MR. MILLER: Well, this is the
16 analysis to look at the -- at the rents based
17 on age. Again, this was -- this analysis is
18 due to looking at the appellant's submission,
19 and there was some allegations there about
20 perhaps not having the proper breaks in
21 the -- in the rental analysis, so what this
22 shows is -- is the 176 rents that were used
23 in the rental analysis broken out into four
24 different age groups; the first group being
25 those that were built prior to 1970; the

1 second group is the properties -- the rents
2 coming from properties built in the 1970s;
3 the third group is the rents coming from the
4 properties that are built in the 1980s; and
5 the fourth group are rents coming from
6 properties that were built in 1990 or newer.

7 So we provided the stats
8 in the upper box there to give you the
9 average and the median and the minimum and
10 the maximum and then show them through the
11 box plots.

12 What it shows is a -- is
13 a -- is a trend of the newer the property
14 typically the higher the rent. And so this
15 would be kind of the basic analysis you would
16 do before you started your modeling to know
17 what's happening with your data.

18 MR. KRISMER: So in here, though, I
19 notice you've grouped them by decades. Is it
20 standard appraisal practice when analyzing
21 properties by age that they're grouped by
22 decades typically?

23 MR. MILLER: Sure. I mean, that is --
24 that's up to the modeler, but it -- I mean,
25 it's -- it's something that's typically done,

1 yes.

2 MR. KRISMER: It's pretty standard that
3 when you talk about a property and its year
4 built that you talk it's built in the '80s or
5 it's built in the '90s or that end?

6 MR. MILLER: Yeah.

7 MR. KRISMER: Would that be correct?

8 MR. MILLER: Mmhmm.

9 MR. KRISMER: And is it typical -- or
10 would it be typical to break your ages up,
11 say, from 1978 to 1980 for some reason or
12 just 1980 to 1989, 1987 to 1990? I mean,
13 typical --

14 MR. MILLER: Not -- not typically,
15 unless there was some, like, super strong
16 evidence to warrant that.

17 MR. KRISMER: Right. There would be
18 have to be something.

19 MR. MILLER: Yeah.

20 MR. KRISMER: -- substantial --

21 MR. MILLER: Yeah.

22 MR. KRISMER: But there wasn't in this
23 to -- to warrant that?

24 MR. MILLER: No.

25 MR. KRISMER: Okay.

1 MR. MILLER: No.

2 MR. KRISMER: So moving on to the next
3 page, I believe it starts off net rents by
4 quality, so quality four is your average
5 quality of buildings and quality five is your
6 good quality buildings. What were you trying
7 to accomplish in this analysis?

8 MR. MILLER: Well, the allegation
9 coming from the appellants were that -- and,
10 again, I think it was -- was cleared up in
11 cross-examination that they were using the
12 term "condition" and "quality"
13 interchangeably, so I really couldn't figure
14 out what they were doing, so what I wanted to
15 do is just produce some statistic of the
16 rents broken up by the quality groups and to
17 do the same thing with the condition ratings,
18 just to give you some perspective of what --
19 what was happening with rents based on that
20 break.

21 I think we heard through
22 the cross-examination that they took the
23 information from our website, so they were
24 actually dealing with quality and not
25 condition, but it was very confusing when I

1 looked at their submission because they --
2 they did use that term on the same page, and
3 they used it interchangeably, so I think we
4 cleared up that, in fact, they were looking
5 at quality.

6 So, really, these are the
7 rents that we were -- that we had to analyze
8 in this particular model, again, the 176
9 rents broken up between the two different
10 quality groups and, again, providing the
11 statistics on what the average and the
12 medians were and the minimum and the
13 maximums.

14 MR. KRISMER: So in your analysis
15 there, you show average quality buildings
16 having an average rent of \$6.44, the good
17 quality average rent at \$6.46, and overall of
18 \$6.41, so between the different qualities,
19 there's not a lot of difference, it appears,
20 in the rents, not driven by quality?

21 MR. MILLER: No.

22 MR. KRISMER: 18(1)(b)

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18(1)(b)

MR. MILLER: Yeah. Again, just for
the board's -- I think you might be looking
at a different page there, but --

MR. KRISMER: Okay.

MR. MILLER: -- 18(1)(b)

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MR. KRISMER: So just to be clear for the board, a property in above-average condition and better would be one that's undergone renovations?

MR. MILLER: Yes.

MR. KRISMER: Yeah. So the condition of it is better than what it would be in normal --

MR. MILLER: Yes.

MR. KRISMER: 18(1)(b)

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18(1)(b)

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MR. MILLER: Correct.

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MR. KRISMER: Turning to the next page,

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and this should be P-323. 18(1)(b)

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MR. MILLER: 18(1)(b)

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MR. KRISMER: 18(1)(b)

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MR. MILLER: 18(1)(b)

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MR. KRISMER: 18(1)(b)

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MR. MILLER: 18(1)(b)

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MR. KRISMER: 18(1)(b)

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MR. MILLER: 18(1)(b)

1 MR. KRISMER: 18(1)(b)

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7 MR. MILLER: 18(1)(b)

8 MR. KRISMER: 18(1)(b)

9 MR. MILLER: So we wanted to test

10 whether -- again, the allegation coming from

11 the appellants was that condition and/or

12 quality, you know, had -- had an influence,

13 and so we wanted to test that -- that

14 allegation and, as you can see, that the

15 quality -- I don't know -- it's highlighted

16 in mine. I'm not sure if it's highlighted

17 in -- it is highlighted in yellow in -- in

18 the submission or not, but --

19 MR. KRISMER: It should read quality

20 five.

21 MR. MILLER: Quality five. And the --

22 and the condition greater than average, which

23 is COND_GTAVG, both got rejected out of the

24 model, telling us that those variables are

25 insignificant, don't have any influence on --

1 on rents.

2 MR. KRISMER: So you tested for both
3 quality and condition in the rents, and both
4 were rejected from the modeling process?

5 MR. MILLER: That's correct.

6 MR. KRISMER: And this is the same
7 process that you would use doing all your
8 modeling, and here I see you tested for
9 retail space or for office space.

10 MR. MILLER: Yeah.

11 MR. KRISMER: And those also were
12 rejected and don't form part of the model?

13 MR. MILLER: Yeah. And different --
14 that different age group, like, you see that
15 the age -- age less than 1970 also got
16 rejected, so yes.

17 MR. KRISMER: That's your standard
18 appraisal practice that you would use
19 throughout --

20 MR. MILLER: Yeah.

21 MR. KRISMER: -- the model?

22 MR. MILLER: Yeah.

23 MR. KRISMER: Thank you. Moving to
24 page 324, and now you're modeling on the
25 assessment of sales ratios. Now, these

1 assessments of sales ratios are after you've
2 completed your analysis, applied the model
3 into the sales, and testing the predicted
4 assessment against the actual or adjusted the
5 sale price, correct?

6 MR. MILLER: Correct, yeah. And,
7 again, this was in reaction to the
8 appellant's submission. They had used a
9 Mann-Whitney test. They had used it on -- I
10 believe it was price per square foot.
11 Typically a Mann-Whitney test is used for
12 testing ratios, assessment ratios, after
13 modeling is done, and it's to check to see
14 whether groups are appraised at the same
15 level or not.

16 So I thought I would
17 provide this for the board. Again, the
18 allegation was that quality, you know,
19 wasn't -- wasn't in our model; therefore,
20 there was some -- some issue with it. So
21 what I provide here is the -- the stats and
22 the Mann-Whitney test on quality after the
23 model has been applied.

24 And they had -- they only
25 had two qualities in theirs, but out of the

1 24 sales, there was one property that was --
2 was a lower quality property, so the
3 Mann-Whitney test tests two different groups.
4 So I eliminated that one and did the test on
5 23 of the sales, 15 of them being a quality
6 four, which is an average quality property
7 and eight of them being quality five, which
8 is a good quality property.

9 And basically at the
10 bottom of the box, it tells you sort of the
11 results of that test.

12 The null hypothesis
13 question is that the distribution of the ASR
14 is the same across the categories of quality,
15 and what happens is that the decision is to
16 retain that null hypothesis, so it's really
17 saying that there's no significant difference
18 between those two groups when it looks at the
19 level of assessment.

20 MR. KRISMER: So after the assessor's
21 model's applied, the resulting values, that
22 they're consistent between the two groups,
23 that there's no evidence to go any further
24 with quality?

25 MR. MILLER: Yeah. It's saying that

1 there's no bias --

2 MR. KRISMER: No bias.

3 MR. MILLER: -- in the -- in the
4 model between those two particular quality
5 groups.

6 MR. KRISMER: Right. So then we move
7 to page 325 and 326, and here you're just
8 testing the storage warehouses, and, again,
9 you came to the same conclusion on page 326
10 based upon quality, that there's no bias in
11 the model afterwards either as it retained
12 the null hypothesis as well.

13 MR. MILLER: Yeah. And, again, in
14 reaction to the appellant's submission where
15 they, for some reason, wanted to just pick
16 out those ten storage warehouses and do the
17 same type of test, I'm doing the same as what
18 they have done, and it shows that there is no
19 bias.

20 MR. KRISMER: And then when I turn to
21 page 327 and 328, I see you're now testing
22 those same ten sales, but now you're using
23 the sale price per square foot, similar to
24 what the appellant had done.

25 And turning to 328, the

1 conclusion there was that there's no bias.
2 There's no reflection that good quality
3 buildings sell for more than average quality
4 buildings on a sale price per square foot;
5 would that be correct?

6 MR. MILLER: That's correct. And
7 it's -- you know, to do it on a sale price
8 per square foot is really not the intent of
9 the Mann-Whitney test. It's something you
10 can maybe do while you're going about your
11 modeling, but, again, Mann-Whitney's
12 really -- its -- its purpose and its use is
13 really after the -- the whole modeling
14 procedure's done and you want to test those
15 assessment ratios to see if there is any
16 bias, but I duplicated what they did. They
17 did it on price per square foot for some
18 reason, and -- and I -- it still shows it on
19 a price per square foot that there's no -- no
20 significant difference between those two
21 quality groups.

22 MR. KRISMER: So --

23 MR. MILLER: But, again, we're down
24 to -- we're only down to ten instances of
25 number of sales to work with, so it's a

1 little bit limited.

2 MR. KRISMER: But at the end of the
3 day, your conclusion then would be that
4 there's no bias in the model is it relates to
5 quality or condition; would that be correct?

6 MR. MILLER: There's no bias in the
7 model, and there's no evidence that would be
8 a stratification point and it should be a
9 stratification point in the modeling.
10 There's no evidence at all.

11 MR. KRISMER: Now, Mr. Schultze was
12 asked recently in regards to the
13 interquartile analysis that the appellant had
14 completed, that interquartile analysis is
15 dependent upon the confidence levels or the
16 upper and lower limits. In dealing with
17 confidence intervals and these types of
18 analysis, is it really dependent upon the
19 sample size that you have to work with?

20 MR. MILLER: Definitely, yeah. I
21 mean, it -- to get -- like, I think they did
22 it on three -- three instances. I don't even
23 understand that because you need at least
24 five data points to even calculate that.

25 So what quartiles do is

1 they break your -- your array of data into
2 four separate groups, so if you only have
3 three -- three data points, I don't know -- I
4 don't know how you do that. You need at
5 least your lowest, your highest -- the middle
6 point is going to be the median and -- and
7 then below the median, the median between the
8 lowest point and the median of the overall
9 array breaks that quartile into two -- two
10 quartiles, the lowest one and the second one.
11 The third quartile and the fourth quartile,
12 again, is the median between the overall
13 median and the upper limit. So you need at
14 least five data points to have quartiles
15 because it breaks your data up into four
16 separate groups.

17 MR. KRISMER: So at tab 31 where
18 they're using three data points --

19 MR. MILLER: Yeah. I haven't -- I
20 haven't seen the tab. I just have been
21 hearing about it, but --

22 MR. KRISMER: But from your opinion and
23 your expertise in this, any results from
24 using three data points in an interquartile
25 analysis is completely misleading and

1 completely false --

2 MR. MILLER: In my opinion, yes.

3 MR. KRISMER: -- because you don't
4 have enough sales.

5 MR. MILLER: Yeah. In my opinion,
6 yes. The -- to even break -- you got to
7 break your data -- you got to break your
8 array of data into four separate groups. I
9 mean, that's what quartiles are. You need at
10 least five data points.

11 MR. KRISMER: Right. Now, they did it
12 based upon three and five sales, and they're
13 trying to establish outliers on this
14 interquartile analysis. Would the correct
15 process of using this type of an
16 interquartile analysis be done on all the
17 sales to determine outliers on the entire
18 group before you even get into your -- your
19 various analysis? Would it be correct to do
20 it at the very beginning to eliminate
21 outliers on the 24 sales or 34 sales versus
22 once you've already broken down into your
23 groupings?

24 MR. MILLER: Yeah. That would be more
25 relevant, yeah.

1 MR. KRISMER: So it's done at the
2 inappropriate time in the analysis here?

3 MR. MILLER: In my opinion, yes.

4 MR. KRISMER: Those would be all my
5 questions, Mr. Miller.

6 CHAIRPERSON: Do you have any
7 cross-examination for Mr. Miller?

8 MR. SIMPSON: I do have a couple of
9 questions, although I would ask for a brief
10 break. Five minutes.

11 CHAIRPERSON: Five, okay. We'll be
12 back at ten after.

13 MR. SIMPSON: Thank you.

14 *(Recessed at 2:01 p.m.)*

15 *(Reconvened at 2:12 p.m.)*

16 CHAIRPERSON: Okay. You can proceed
17 with your cross-examination of Mr. Miller.

18 MR. SIMPSON: Thank you, Madam Chair.

19 MR. SIMPSON: CROSS-EXAMINATION:

20 MR. SIMPSON: Just a couple questions.

21 MR. MILLER: Yeah.

22 MR. SIMPSON: Do you have the net rents
23 in evidence today?

24 MR. MILLER: I've got the --

25 CHAIRPERSON: Mr. Simpson, can you

1 speak clearer into your mic?

2 MR. SIMPSON: Yes, I'm sorry. Would
3 you happen to have a list of all the net
4 rents that were used?

5 MR. MILLER: Not in front of me, no.
6 Like, individually? No.

7 MR. SIMPSON: Thank you. Did you
8 perform a Kruskal-Wallis analysis on the net
9 rent based upon age, the age splits, shown on
10 page 320, the -- basically the decade split?

11 MR. MILLER: No.

12 MR. SIMPSON: Thank you. Under
13 quality, you list average as four and good as
14 five, correct?

15 MR. MILLER: That's correct.

16 MR. SIMPSON: 18(1)(b)

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21 MR. MILLER: I'm not sure I understand
22 the question.

23 MR. SIMPSON: 18(1)(b)

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4 MR. MILLER: 18(1)(b)

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7 MR. SIMPSON: 18(1)(b)

8 MR. MILLER: 18(1)(b)

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10 MR. SIMPSON: Okay.

11 MR. MILLER: Just to -- just for

12 identification.

13 MR. SIMPSON: Thank you.

14 MR. MILLER: Yeah.

15 MR. SIMPSON: So within warehouses, you

16 would have roughly just the two qualities

17 then, four and five or average and good?

18 MR. MILLER: No. You'd have the full

19 range of qualities.

20 MR. SIMPSON: Okay.

21 MR. MILLER: 18(1)(b)

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MR. SIMPSON:

Right.

MR. MILLER:

18(1)(b)

MR. SIMPSON:

Okay. I see.

MR. MILLER:

-- remaining --

MR. SIMPSON:

I see.

MR. MILLER:

--18(1)(b)

MR. SIMPSON:

18(1)(b)

MR. MILLER:

18(1)(b)

MR. SIMPSON:

Okay. Thank you. That's

all my questions, but I appreciate it.

MR. MILLER:

Thank you.

MR. KRISMER:

That would be our

submission, Madam Chair. And we would be

willing to move right into closing arguments,

1 if you wanted.

2 CHAIRPERSON: Do you have any further
3 questions, Mr. Simpson?

4 MR. SIMPSON: Yes, Madam Chair. I
5 was -- I had kind of skipped over some
6 before, considering Mr. Schultze only
7 testified to certain portions of the
8 document, so I just need to review them
9 quickly. It won't take very long.

10 CHAIRPERSON: Please do that. And then
11 we'll start asking.

12 MR. SIMPSON: Thank you.

13 CHAIRPERSON: Please proceed.

14 MR. SIMPSON: Thank you, Madam Chair.
15 In the written submission
16 on behalf of the City of Regina, so at the
17 beginning of the submission, on page 13,
18 paragraph 27, halfway down -- or I'll start
19 near the top.

20 As noted in the evidence
21 document, the assessor determined the two
22 sales of 290 Henderson Drive to fully
23 represent 100 percent of the fee simple
24 interest of the property; however, if the
25 board finds otherwise, a standard appraisal

1 practice includes adjusting a sale to reflect
2 what the sale price would have been had the
3 entire fee simple interest been included. In
4 the present case, if the board determines
5 that the two sale prices of 290 Henderson
6 should have been included, the 7,600 square
7 foot warehouse -- then the value of the
8 unheated warehouse must be added to the sale
9 prices. The assessor did this by estimating
10 the value of the unheated warehouse as of the
11 base date of valuation at \$72,600.

12 My question is how
13 exactly that \$72,600 was developed to be
14 applied to the 7,600 square foot unheated
15 warehouse?

16 MR. KRISMER: Simply put, capitalizing
17 the rent that was acquired on the property by
18 an appropriate capitalization rate to
19 estimate the value of that warehouse based
20 upon the rents that were being achieved.

21 MR. SIMPSON: So in other words, it was
22 selling at roughly \$9.55 per square foot in
23 2010?

24 MR. KRISMER: If that's what it works
25 out to, that -- it looks about right.

1 MR. SIMPSON: And about 12,600 more
2 dollars than what it actually sold for in
3 2013?

4 MR. KRISMER: Correct. We were
5 estimating approximately what it would have
6 sold for back in 2011, January 1st, 2011. We
7 were estimating it. That's the adjustment
8 we'd make. It wouldn't reflect what it
9 actually would sell for, but it's an
10 adjustment to the sale price to reflect what
11 it may have sold for.

12 MR. SIMPSON: Thank you very much.

13 That's it from us, Madam Chair. Thank you.

14 CHAIRPERSON: And please continue with
15 your closing argument.

16 MR. SIMPSON: Thank you, Madam Chair.
17 The issues today come down to roughly three
18 areas, 144 Henderson Drive, 290 Henderson
19 Drive, and 1500-5th Avenue.

20 144 Henderson Drive,
21 additional components to a property, slow
22 down depreciation and increase the economic
23 life of said property.

24 Coming from that, what
25 occurs then is the 1988 determined by the

1 city doesn't account for the additional
2 space. When calculated and using the
3 aggregate as -- I believe it was discussed
4 with Mr. Schultze through cross-examination.
5 Age of the property is taken as a whole, and
6 you determine rate and adjustment that way.

7 In doing so, the net
8 operating income at 144 Henderson Drive
9 increases to -- as we found out through the
10 process today -- roughly 18(1)(b)(c) which
11 changes the cap rate of that property to
12 10.97 percent, I believe.

13 Both sales of 290
14 Henderson Drive, it was determined that the
15 unheated warehouse didn't actually sell with
16 the property. There was -- argued as such by
17 the assessor through the initial model, but
18 the position has seemingly changed today.

19 The -- by making the
20 necessary adjustments and looking at the
21 property, the condition and facts at the time
22 of sale, it's below 25,000 square feet and
23 should be put into the smaller
24 stratification.

25 And that leaves us with

1 1500-5th Avenue, a lone sale, which, although
2 predominantly unheated, was adjusted through
3 the net rental income model by applying 50
4 percent reduction. The cap rate had dropped
5 from over 17 percent to 11.2 percent when
6 that happened. It puts in range or in line
7 with the other heated or -- or typical
8 properties within the Regina marketplace, and
9 in doing so, we feel is a valid sale that
10 simply cannot be ignored by the assessor.

11 When taken as a whole
12 between these three issues, the cap rate
13 increases from 9.43 percent to roughly 10.7
14 percent. There was some calculation issues,
15 and so it would be around that number, but
16 I'm not sure the exact number at this point.

17 Case law, as supplied by
18 the City of Regina in their submission, HDL
19 Investments, talks to -- or speaks to the
20 application of adjustments. As such, we feel
21 this is good support and good standing for an
22 adjustment to be made or having the
23 adjustment being made to 1500-5th Avenue,
24 that it should be included with the rest of
25 the sales.

1 Association, the IAAO, and the Appraisal
2 Institute of Canada.

3 And due to our statutory
4 responsibility, this is why the assessor's
5 afforded a lot of discretion in this work.
6 And unless that discretion is abused, the
7 courts have said, don't interfere with it.
8 The reason being is that that's my role.

9 Other people might have
10 an opinion of how to do something
11 differently, but that's their opinion, but
12 that doesn't mean the assessor is wrong, and
13 the appellant has to show evidence of an
14 error, not evidence of an opposing opinion.

15 And with respect to the
16 appellant today, going through the submission
17 and every mathematical calculation that's in
18 the submission, quotes from the handbook, the
19 like, it is fraught with errors, it is full
20 of errors. And if that were the assessor's
21 work, that would be troublesome, can't
22 calculate a net operating income, doesn't
23 know where it came from, but that's the
24 evidence of the error, abuses the
25 interquartile analysis, abuses the

1 Mann-Whitney test to support their position.
2 Could not answer questions under
3 cross-examination, couldn't find where it was
4 stated in the books. That's not evidence of
5 an error. That's his own opinion.

6 190 Henderson Drive and
7 the allegation with 190 Henderson -- or 144
8 Henderson Drive. The first allegation was
9 that the sale had too high of an income due
10 to the unheated warehouse and that had to be
11 corrected, and we did that. We agree.

12 The second allegation was
13 that the effective year built is something
14 1990 and newer, yet he chose to use one text
15 and that was based upon area, even though the
16 correspondence said use the replacement cost
17 new.

18 Now, sure the handbook
19 offers off the option of using one or the
20 other. The assessor used both. And based
21 upon the assessor's data, the year built was
22 1988 correctly.

23 The discretion to use one
24 over the other is not the discretion that the
25 appellant has. That's the assessor's

1 discretion.

2 The appellants are not --
3 and it's sad to say, but the appellants are
4 not afforded the discretion that the assessor
5 is, so they chose to do one, but they didn't
6 complete the steps. They should have
7 completed two.

8 Then they were relying
9 upon data on a property from 2003, the
10 assessor's old field sheets. Then they rely
11 upon new data that has a hallway built, no
12 measurements, no dimensions, just trust me,
13 it's there. Mezzanine's that don't affect
14 the age of the structure, he says that's the
15 way you should do it. No digest to support
16 his position. He could not produce one
17 document that said, you shall include
18 mezzanines and finished hallways in your
19 calculation of effective age. Not one. But,
20 trust me, he says, I think you should. Based
21 on what?

22 The assessor ran nine
23 tests, a minimum of nine tests on effective
24 age to support his 1988 built.

25 There is no error in the

1 assessor's work of recognizing 144 Henderson
2 as a 1988-built building and including it in
3 that analysis.

4 1135-8th Avenue in their
5 original notice of appeal alleged that the
6 assessor had erred in a calculation of that
7 net operating income. We reviewed it. They
8 were right. So we corrected it as we put
9 forward in our submission.

10 The result of correcting
11 both 144 Henderson and 1135-8th Avenue was
12 that the overall cap rate decreases. Once
13 recognizing that -- even though they were
14 told some time back in January -- they
15 appeared before this board to withdraw an
16 issue that goes against their client's
17 wishes. They're not concerned with equity.
18 They're concerned with the lower value, so
19 they withdraw the issue dealing with
20 1135-8th. Why? It has a negative effect on
21 their clients, not the effect that they
22 wanted.

23 1500-5th, this board in
24 2014 found that that sale was a sale of an
25 atypical property and ought not to be

1 included in the array of typical properties.
2 86 percent of that property is unheated. In
3 Saskatchewan, how valuable is an unheated
4 warehouse, except for a limited number of
5 people? Imagine working on your semi when
6 it's minus 40 outside with no heat. Renting
7 it to various tenants to occupy for storage
8 of goods, manufacturing, whatever it might
9 be, but you have to wear toques, gloves, and
10 mitts in the middle of wintertime in
11 Saskatchewan. Not a lot of demand for that
12 type of property. It is atypical, and it is
13 being trying to use to value the typical
14 warehouse, which is wrong.

15 And as the assessor put
16 forward, the digest from the International
17 Association of Assessing Officers all support
18 that exclusion of the sale. There was not
19 one document brought forward by the appellant
20 that would show that you would include it.

21 He states, well, he made
22 the adjustment on the rent side; therefore,
23 it's captured, yet it still produces the
24 highest capitalization rate of the sales.
25 It's still showing -- something's still wrong

1 with it. That's the atypical aspect of the
2 property. It's just not a good property to
3 be used to establish atypical.

4 And, again, as
5 Mr. Schultze testified to, would you use the
6 sale of a house that is unfinished to
7 establish the value of a finished house? And
8 the answer is no because it's not typical,
9 but that's what's being asked in this case.

10 Dealing with 290
11 Henderson, it's kind of a misleading
12 statement because that sale wasn't used to
13 establish the current cap rate or those sales
14 weren't. They were used to establish an
15 unheated adjustment. The unheated adjustment
16 is not under appeal.

17 So the result is, if this
18 board finds that those sales were a sale of a
19 20,000 square foot property, it doesn't
20 affect the assessment of the subject.

21 There's nothing wrong with those sales. They
22 were sales registered at land titles. The
23 owner bought 100 percent fee simple interest
24 in that property, and he got the property.

25 They state the cap rate

1 is somewhere around 10.7 percent. Somewhere.
2 With all the errors in their submission, they
3 don't know what it is, and, in fact, it could
4 be equal to what the assessor has once you
5 correct all their errors. There is no
6 evidence that there is an error.

7 And as it relates to the
8 adjustments for 1500-5th that they were
9 suggesting, they relied upon the Court of
10 Appeal decision in HDL in the assessor's
11 submission, and with respect, that's a
12 stretch. The Court was dealing with sale
13 price adjustments, not rental adjustments.
14 They provided zero evidence that once an
15 adjustment has been identified in the rent
16 model, that you don't need to further make an
17 adjustments for a capitalization rate. No
18 evidence. It's just their suggestion. It's
19 done. Don't need it.

20 So it's our respectful
21 submission, Madam Chair, that there's been a
22 lack of evidence in the -- of any credible
23 evidence for that matter in this appeal. The
24 assessor's put forward his model. It's
25 factual, it's honest, and it's unbiased.

1 capitalization rate, if done pursuant to the
2 current methodology for all other warehouses
3 where you look at freestanding structures and
4 apply the effective age of that structure,
5 then the 9.15 incorrect. It should be 9.26.
6 So there's an error right there.

7 MR. KRISMER: With respect, Madam
8 Chair, I'd like to have seen this in
9 cross-examination. If we're going to
10 introduce errors, I'd like to see some of
11 that. I don't think this is the time to
12 start pulling data out and saying, there's
13 the error, there's the error, there's the
14 error. This is closing arguments. That time
15 is long past. That ship's sailed.

16 CHAIRPERSON: Heard and noted. Please
17 proceed.

18 MR. SIMPSON: Thank you. There were
19 ten -- with that, Madam Chair, I guess
20 there's no further comments.

21 CHAIRPERSON: This concludes the
22 hearing on appeal number 27703, 680 McLeod
23 Street. The board reserves its decision and
24 will render it in writing at a later date.

25 It is my understanding

1 that we all be -- the evidence and argument
2 from these -- this appeal is to be carried
3 forward. Is this correct?

4 MR. SIMPSON: Correct, Madam Chair.

5 CHAIRPERSON: Mr. Krismer?

6 MR. KRISMER: That would be correct,
7 Madam Chair, as it relates to the remaining
8 properties on the docket, yes.

9 CHAIRPERSON: Okay. So I will read
10 those out and just so that the record is
11 complete.

12 So all argument and
13 evidence is carried forward. And I'm just
14 going to read the appeal number, not the
15 property addresses attached, okay?

16 So it's appeal number
17 27677, 27678, 27679, 27680, 27681, 27682,
18 27683, 27684, 27685, 27686, 27687, 27688,
19 27689, 27690, 27692, 27693, 27694, 27695,
20 27696, 27697, 27698, 27699, 27700, 27701,
21 27702, 27674, 27675. Is this a complete and
22 accurate list, Mr. Simpson?

23 MR. SIMPSON: Yes, Madam Chair.

24 CHAIRPERSON: Mr. Krismer?

25 MR. KRISMER: I believe so, Madam

1 Chair.

2 CHAIRPERSON: Okay. So these hearings
3 will -- well, the decision will be reserved
4 and rendered at a later date in writing, and
5 this concludes this hearing, I think.

6 MR. SIMPSON: Thank you.

7 MR. KRISMER: It's -- it's hard to say,
8 Madam Chair, as there are a couple of
9 properties that had site-specific issues, and
10 I'm not sure if they've withdrawn those
11 issues or not.

12 CHAIRPERSON: 27 -- or, no, 745 Park
13 Street was withdrawn, the --

14 MR. KRISMER: Okay.

15 CHAIRPERSON: -- space issue on that
16 one. And the other one was 27645 for
17 2201-1st Avenue, Regina.

18 MR. KRISMER: Okay.

19 CHAIRPERSON: And that one you had
20 already adjusted. I think that was right in
21 the preliminary matters.

22 MR. KRISMER: We are recommending a
23 change to that property, that's for sure. I
24 don't know if I had it in my preliminary
25 matters.

1 CHAIRPERSON: I know in the dockets,
2 there was no written information about it,
3 except in the city's side on your -- right at
4 the very back where all the properties -- the
5 information was. There was some handwritten
6 changes, and a new assessment dated -- I
7 think it was March 2nd or 7th, something,
8 with the new rate.

9 MR. KRISMER: That's correct. That is
10 definitely in the submission. I guess from
11 the property owner's perspective or the
12 appellant's, they haven't addressed that, so
13 are they withdrawing that issue on 2201-1st?
14 They didn't address it in
15 the written submission. That's why I'm
16 confused, Madam Chair.

17 CHAIRPERSON: Can you speak to that,
18 Mr. Simpson?

19 MR. SIMPSON: Communications with the
20 assessor suggested that -- or honestly I'm
21 not sure.

22 MR. FIELDGATE: It's my understanding --
23 and Mr. Krismer, I think, is correct. We
24 hadn't really established at the hearing
25 itself that -- that they were putting that

1 out there as a recommendation. It's just a
2 small adjustment they wanted made, but we
3 thought there was a bigger error when we
4 first did the submission, and I realized that
5 there wasn't. We talked to our client, so I
6 believe that Mr. Krismer's correct. I
7 believe we had not established the final
8 value at the hearing per se, but I know what
9 you're referring to, is the figures you saw,
10 and it's also what I saw too, so --

11 CHAIRPERSON: So am I hearing you
12 accept that with no question?

13 MR. FIELDGATE: So as far as the
14 adjustment goes on -- on -- as far as that
15 goes, but that still -- this still applies,
16 what we did today, subject to what you do
17 with -- with our appeals today on the cap
18 rate.

19 MR. SIMPSON: We had no problem with
20 the written notice that were in the back of
21 the assessor's submission on the second --
22 I'm not sure where it is.

23 And I looked there. They
24 were reducing it -- was it two-hundred-and --
25 or they were reducing the assessment in the

1 square footage, and we felt, after confirming
2 with our client, that that was accurate, so
3 not the 18,000 initially thought to be an
4 error, but what they have submitted in their
5 submission.

6 CHAIRPERSON: Okay. Just a minute. I
7 need to find the paperwork so we have the
8 numbers.

9 MR. KRISMER: If the board wishes, it's
10 in our appendix -- or second binder, and it's
11 on P-19.

12 CHAIRPERSON: Thank you. Have you also
13 found it, Mr. Simpson?

14 MR. SIMPSON: Yes, Madam Chair.

15 MR. KRISMER: So it would be our
16 submission, Madam Chair, of course, carrying
17 forward the argument, that appeal, on the
18 merits on the other issues be dismissed, and
19 if that's the case, we suggest a new value of
20 4,255,000 for 2201-1st.

21 CHAIRPERSON: And you're in agreement
22 with that nod?

23 MR. SIMPSON: Yes, Madam Chair.

24 CHAIRPERSON: Okay, okay. And this is,
25 just so I understand, based on the 200 square

1 foot area change for this property and
2 results in this assessment change based on
3 all the carry-forward information not
4 affecting this at this point in time, and
5 whatever the decision there, that will either
6 change it or not change it.

7 MR. KRISMER: That's correct, Madam
8 Chair.

9 CHAIRPERSON: Okay.

10 MR. FIELDGATE: Yes, we -- we agree.

11 CHAIRPERSON: Okay. We can write that
12 up. Thank you.

13 Is there anything else?

14 MR. KRISMER: I don't believe so, Madam
15 Chair.

16 MR. SIMPSON: No, Madam Chair.

17 MR. FIELDGATE: No, Madam Chair.

18 CHAIRPERSON: Thank you, all. And we
19 are adjourned.

20 *(Adjourned at 2:50 P.M.)*

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I, BRITTANY EVANS-DAVIES, CSR, Certified Court Reporter, hereby certify that the foregoing pages contain a true and correct transcription of my stenograph notes taken herein to the best of my knowledge, skill and ability.

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